

ILLICIT FINANCIAL FLOWS TOWARDS A MORE INTEGRATED APPROACH FOR CURBING ILLICIT FLOWS FROM ZIMBABWE



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LIST OF ABBREVIATIONS

AfDB	African Development Bank
AFRODAD	African Forum and Network on Debt and Development
CAMPFIRE	Communal Areas Management Programme for Indigenous Resources
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species
DOTS	Direction of Trade Statistics
EITI	Extractive Industries Transparency Initiative
EMA	Environment Management Agency
EPSR	Export Proceeds Surrender Requirements
FAO	Food and Agriculture Organisation
FDI	Foreign Direct Investment
GoZ	Government of Zimbabwe
IFFs	Illicit Financial Flows
IMF	International Monetary Fund
IUU	Illegal, Unregulated and Unreported
KPCS	Kimberly Process Certification Scheme
MIKE	Monitoring of Illegal Killing of Elephants
MMCZ	Minerals Marketing Corporation of Zimbabwe
MoF	Ministry of Finance
MoFED	Ministry of Finance and Economic Development
OGP	Open Government Partnership
PIKE	Proportion of Illegally Killed Elephants
RBZ	Reserve Bank of Zimbabwe
SADC	Southern African Development Community
SITC	Standard International Trade Classification
UNCCD	United Nations Convention to Combat Desertification

UNCED	United Nations Conference on Environment and Development
UNCOMTRADE	United Nations Commodity Trade Statistics Database
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forest
USA	United States of America
ZIMRA	Zimbabwe Revenue Authority
ZIMSTAT	Zimbabwe Statistics Agency
ZMDC	Zimbabwe Mining Development Corporation

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EXECUTIVE SUMMARY

This study is an attempt to estimate the levels of Illicit Financial Flows (IFFs) from Zimbabwe's Mining, Fisheries, Timber and Wildlife sectors, over the period 2009 to 2013. It seeks to assess the possible drivers of IFFs and the existing legal and institutional frameworks designed to curb IFFs. The study also provides rich background material on the legal and institutional frameworks governing the development and exploitation of natural resources in Zimbabwe. A comparison of national strategies within the Southern Africa region to combat illegal exploitation and trade of the resources from the aforementioned sectors is discussed, with a view to draw important lessons for Zimbabwe.

The study makes use of both qualitative and quantitative techniques to answer the research questions set out in the original Terms of Reference. It notes that IFFs are very complex and difficult to accurately measure, due to the fact that many illicit transactions tend to be settled in cash, as parties involved in such transactions eliminate any incriminating audit trails. Furthermore, transactions of this nature are never declared and it becomes extremely difficult to track and measure how much government revenue is lost through these malpractices. A number of methodologies that have been applied on the global scale to estimate IFFs are discussed: the IMF Reference Guide, the Residual Method by the World Bank and the Trade Mis-pricing Model. The study used the trade Mis-pricing Model, given that trade mis-invoicing is one of the key conduits, accounting for over 70% of IFFs, through which economic agents illegally move money out of (and into) developing countries. Furthermore, the Trade Mis-pricing model is ideal for sectoral analysis of the IFFs, which is what this study set out to achieve.

The estimates are based on the analysis of data sets for partner-country trade, covering the aforementioned sectors, from United Nations Commodity Trade Statistics Database (UNCOMTRADE) and Convention on International Trade in Endangered Species (CITES). The study estimated that between the period 2009 - 2013, Zimbabwe lost US\$2.83 billion, through illicit flows, translating to an annual average of US\$570.75 million. Of the cumulative outflows, 97.88% (US\$2.793 billion) were in the mining sector. IFFs in wildlife accounted for 0.53% of the total, at US\$15.07 million, whilst Fisheries and Timber accounted for 0.98% and 0.61% at US\$28.04 million and US\$17.30 million, respectively.

The most immediate impact of IFFs is a loss of revenue, hence, a loss of opportunities for domestic consumption and investment, both public and private. These revenue outflows could have been used for productive economic and social investments, in support of the economic growth objectives of the government. Redressing the net outflows from Zimbabwe, that we estimate at an annual average of US\$570.75 million, (from 2009 to 2013), could help create additional fiscal space for critical growth enhancing investments.

IFFs are mainly underpinned by a number of factors, chief among them being legal and institutional lapses in the domestic fiscal and financial systems, leading to corruption and other forms of trade mal-practices. Other key drivers of IFFs in the Wildlife and Fisheries sectors include, demand and supply mismatches, price mismatches resulting from price controls, tax and exchange control loopholes. Regarding the Mining sector, IFFs are mainly a result of corruption, dysfunctional regulation, weak enforcement of rules, tax evasion, tax avoidance, smuggling, lack of transparency and accountability in the collection and management of natural resource revenues. Furthermore, Government's limited information on the quantity and quality of geological deposits, and shortcomings of the Mines

and Minerals Act [Chapter 21:05], create room for rent seeking behaviour and under-declarations of quantity and quality of minerals, thus aiding the illicit outflows of money from the country.

With regards, to timber, the level of IFFs is low and is not a major cause for concern from a Fiscal revenue perspective. However, the major challenge with the timber sector is the rampant illegal logging of trees for domestic consumption. The underlying drivers are the weak enforcement of environmental policy and legal frameworks in addition to their inconsistencies, poverty, and very high unemployment in Zimbabwe that leaves people with limited alternative sources of livelihood. The other challenge is that of insecurity of land tenure, coupled with the ownership wrangle that accompanied the resettlement programme, exposed indigenous forests to illegal exploitation.

A review of national strategies to combat IFFs in the Southern Africa region shows that a number of countries have instituted varied legal and institutional arrangements. For example, countries have enacted Anti-corruption Acts, Anti-Money Laundering Acts, and the Financial Intelligent Units. However, their effectiveness in dealing with IFFs remain constrained due to a lack of political will, coupled with political interference in the operations of the institutions established to deal with IFFs, given that politicians may be involved directly or in collaboration with unscrupulous business people to illegally exploit and transfer resources across borders. Furthermore, limited human capacities, low morale, limited budgetary funding, among others, were identified as key factors affecting the operational effectiveness of the various government institutions set up to fight IFFs.

In conclusion, the study noted that the problem of IFFs is a global phenomenon that requires joint effort at global level. Curtailing IFFs requires concerted efforts by both developed and developing countries. This, therefore, requires greater emphasis and international cooperation by individual nations on measures aimed at regulating secrecy jurisdictions, strengthening anti-money laundering efforts, enhancing tracking of financial crimes, corruption and enhancing the capacity of the UN Committee of Experts on International Cooperation in Tax Matters, among others. This should be coupled with initiatives in support of transparency in international financial transactions, through the full implementation of such initiatives as UN Resolution 55/188 on the illegal transfer of assets, as well as the Stolen Asset Recovery Initiative.

The arguments for a global approach to IFFs is further strengthened by the fact that only a collective approach to reform the global financial system, can achieve reforms that works for developing countries as well. These measures includes dealing with cases of excessive financial secrecy that allows tax evasion, money laundering, terrorist financing or other criminal activities. This is because many rich nations benefit from financial secrecy or tax avoidance at the expense of a poor country. For instance, where a multinational company headquartered in a developed country, is engaged in transfer mispricing to shift its profits out of a developing country, or where foreign companies use offshore accounts to evade exchange control requirements in developing nations.

In that regard, reforms in the international financial architecture, requiring greater transparency in the banking system could be a giant step towards addressing the problem of IFFs. If banks were obliged to ascertain the identity, source of wealth, and country of origin of their customers and their deposits, this would enhance greater transparency, to the detriment tax havens, which thrives in

secrecy. Further, such mechanism will not only discourage IFFs but will also help in the repatriation of stolen assets, as well as enforce compliance with tax laws of respective countries.

Furthermore, a global initiative to deal with IFFs needs the full endorsement of developing nations which are often at the receiving end of IFFs. These global measures under the Worldwide Counter-Illicit Financial Flows Initiatives include, Automatic Exchange of Tax Information, Beneficial Ownership, Country-by-Country Reporting as well as measures to fight Tax, Transfer Pricing, and Profit Shifting.

At country level, countering IFFs would require strengthening of the legal and institutional frameworks that are fit for purpose; credible; enforceable and adaptable to the dynamic and complex illicit activities that facilitate IFFs. Penalties for offenders should be deterrent and incentive compatible. Institutions created to deal with economic crimes, such as the Anti-Corruption Commission and the Anti-Money Laundering Unit, must be given enough degrees of freedom and autonomy to operate freely without the interference of politicians. Equally important is the need to ensure that the institutions are well resourced and are staffed with well-motivated and technically competent personnel to investigate and deal with complex issues of IFFs.

In mining, there is need to address information asymmetry, regarding the quality and quantity of mineral ores by investing in geological surveys. Such information asymmetry leads to tax avoidance through bad contract negotiation, and illegal exploitation of minerals through underreporting of the quantity and quality of minerals. Further, this should be complemented by reforms in the Mines and Minerals Act, to eliminate discretionary decision making powers and the practice of case-by-case negotiation of royalties and tax concessions for special mining leases, which creates room

for corruption. Discretionary powers should be eliminated in favour of a transparent and rule based approach. This can be achieved by introducing standard model contract or enshrining in the law the operational and financial details of the extractive sector that promote national interest. This eliminates room for individual negotiation between Government officials and potential miners.

Furthermore, addressing current constraints of transparency, accountability, and competitive acquisition of mining licences would help deal with the problem of IFFs. Disclosure of information on revenue flows and other benefits obtained from mining, in line with the Extractive Industries Transparency Initiative (EITI), principles, procedures, standards and rules, is also of paramount importance in the fight against IFFs from mining. This could be achieved through reviving the Zimbabwe Mining Revenue Transparency Initiative. Furthermore, the Zimbabwean tax regime needs to be reformed to simplify it by streamlining its multiple components, to balance revenue collections objective and encouraging investment in new exploration and mining, as well as, to take into account the needs small-scale miners.

Zimbabwe's wildlife laws also need refinements to ensure that penalties imposed reflect the true value of the resource being destroyed. Wildlife offences should attract stiffer and rule based penalties that can deter illicit trade in the sector. Equally, the existing framework aimed at addressing illegal logging in Zimbabwe, which is a source of IFFs, tends to focus on low level criminal activity, ignoring the more sophisticated syndicate which may include companies and unscrupulous business people. This requires all the law enforcement agencies to be proactive in the investigation and prosecution of illegal logging and trade of timber.

1.0 INTRODUCTION

The issue of Illicit Financial Flows (IFFs) is not only of concern to developing countries like Zimbabwe but is at the forefront of the international agenda on Financing for Development (FfD). Governments worldwide are joining forces to combat money laundering, tax evasion and international bribery, which make up the bulk of IFFs. Although illicit financial flows are a problem for both developed and developing nations, the negative impact is more severe on developing nations, who are already faced with limited budgetary resources, against high expenditure demands. Hence, a dollar of missing revenue that is illegally exported has a higher social opportunity cost in developing nations. Furthermore, developing countries' institutional, legislative and administrative capacities are weak, and cannot adequately deal with sophisticated business practices of Multi-national corporations.

Globally, the exact scale of IFFs is unknown, but it has devastating effects on developing countries' development outcomes. Precise quantification of what is, by definition a hidden activity is fraught with complications. While, estimates of IFFs vary greatly and are heavily debated, there is an emerging consensus that IFFs far exceed aid flows and investment volumes in Africa. For example, the [African Development Bank (AfDB) & the Global Financial Integrity (2013)] estimated that Africa was a net creditor to the world, as measured by net resource transfers, to the tune of up to US\$1.4 trillion, adjusted for inflation,¹ over the period 1980-2009, giving an annual average of US\$48 billion.

Furthermore, illicit financial flows were the main driving force behind the net drain of resources from Africa of US\$419.1 billion,²

¹ *The African Development Bank & Global Financial Integrity, Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980-2009*

² *Ibid*

between 2002 and 2011. At the country-level, Zimbabwe was ranked 89 out of 144 countries surveyed with US\$3.115 billion having been siphoned illegally from the country between 2002 and 2011, (DevKar et al, 2013). However, (Ndikumana & Boyce, 2008) ranked Zimbabwe as the sixth highest on IFFs from Africa, with an estimated loss of US\$18.3 billion over the period 1970 to 2003. On the other hand (UNCTAD, 2009) estimated that illicit flows from Zimbabwe were 344% of its GDP in 2004. While these estimates may be debated, they however indicate that Zimbabwe is not immune to the problem of IFFs. This study will attempt to shade more light on the extent of this problem.

1.1 What are Illicit Financial Flows (IFFs)

Illicit financial flows (IFFs) take different forms as financial capital is transferred out of a country in contravention of national or international laws. According to Global Financial Integrity (GFI), IFF is money that is illegally earned, transferred, or utilised, in violation of laws in its origin (DevKar et al, 2013). A review of the literature suggests that illicit financial flows generally involve the following practices: money laundering; bribery by international companies; trade in contraband products; tax evasion and trade mis-pricing (Tax Justice Network, 2011). However, this categorisation of IFFs does not indicate the source of such flows which may arise from illegal or corrupt practices such as smuggling, fraud or counterfeiting. In some instances, the sources of funds may be legal, but their transfer from one jurisdiction to another is done in contravention of existing fiscal and regulatory legislations, such as in the case of tax evasion by individuals and companies.

In practice, IFFs range from simple private individual transfer of funds into private accounts abroad without having paid taxes, to highly complex schemes involving criminal networks that set up

multi-layered, multi-jurisdictional structures to hide ownership. Most attention has been given to outflows of company profits and much less attention has been paid to outflows associated with tax evasion particularly through transfer pricing which is perhaps the most ubiquitous of the sources of illicit financial flows. In this regard legal funds earned through legal business but transferred abroad in violation of exchange control regulations also become illicit.

Illicit flows normally thrive in countries with weak legal and institutional frameworks and tax havens which provide an enabling environment for disguised corporations, shell companies, anonymous trust accounts and fake charitable trusts, as vehicles for money transfers. In addition, DevKar et al (2013) identified trade mis-invoicing as a major driver of IFFs. He showed that there are three common variables driving IFFs through export mis-invoicing in the 55 developing countries surveyed, over the period 2002-2011. Two are regulatory in nature; Export Proceeds Surrender Requirements (EPSR) and capital account openness and the third is the state of overall governance in the country.

The EPSR is a requirement levied on exporters in many developing countries that requires them to repatriate any foreign currency obtained through international trade in return for local currency, sometimes at a specified exchange rate. This measure is typically implemented to supply the government with a source of valuable foreign reserves that it can use to provide macroeconomic stability. EPSR leads to export under-invoicing when exporters see the repatriation requirement as a confiscatory measure, hence, companies involved in exporting goods may resort to under-valuing their exports in order to avoid having to surrender their foreign currency. In the presence of a high inflation or volatile local exchange rates, companies that conduct international trade often rely on foreign reserves of capital in the same manner that governments do. Hence the presence of EPSR

can influence exporters to under-value their exports in order to hold foreign exchange in offshore bank accounts instead of onshore in foreign currency accounts.

Further, (DevKar et al, 2013) found that de facto capital account openness leads to greater export mis-invoicing in both directions. High level of de facto capital controls incentivises traders to circumvent these restrictions through trade mis-invoicing. Using this logic, the easing of de facto restrictions on capital movements should result in less trade mis-invoicing over time since legal channels are now available for shifting capital abroad. The surprising fact, however, is that much of the developing world has gone through substantial capital account liberalisation since the 1970s and the problem of trade mis-invoicing has only worsened. In this regard openness and liberalisation alone cannot curtail mis-invoicing in the absence of greater regulatory oversight. Capital account liberalisation in the presence of weak governance can be a prescription for more illicit flows, DevKar et al (2013).

The most immediate impact of IFFs is loss of revenue, hence, a reduction in domestic expenditure and both public and private investment, in growth enhancing infrastructure and social sectors of health and education, thereby weakening economic potential. For instance, the (AfDB, 2013) estimated that Africa faces an annual infrastructure deficit of US\$93 billion. Therefore, curtailing these IFFs, estimated at an annual average US\$48 billion, could help half the infrastructure deficit and position the continent on a strong growth path. In addition, IFFs drain foreign exchange reserves and undermine countries' capacity to respond to adverse external shocks. IFFs also impair long-term economic growth and worsen poverty by depriving countries from benefiting from the economic activities taking place within their national boundaries.

In recognition of the damaging effects of IFFs on developing countries, leaders meeting at the Fourth High Level Forum on Aid Effectiveness in Busan in 2011 agreed on a raft of measures to combat IFFs. These measures include: strengthening anti-money laundering reforms; addressing tax evasion; strengthening national and international policies, legal frameworks and institutional arrangements for the tracing, freezing and recovery of illegal assets. This calls for the enactment and implementation of laws and practices that facilitate effective international co-operation (OECD, 2011).

1.2 Problem of IFFs in Zimbabwe

(Ndikumana & Boyce, 2008), who ranked Zimbabwe, the sixth on IFFs from Africa, between 1970 to 2003, noted that IFFs from the country are more apparent in mining, forestry and wildlife related safari activities and can be identified in: (a) the proceeds of theft, bribery and other forms of corruption; (b) the proceeds of tax evasion and laundered commercial transactions; and (c) the proceeds of criminal activities, including drug trading, racketeering, counterfeiting, among others. According to the Zimbabwe Revenue Authority (ZIMRA)³ IFFs in Zimbabwe occur through tax evasion and tax avoidance schemes by multinational corporations, mainly due to weaknesses in the tax legislation. These weaknesses include: lack of specific transfer pricing guidelines and an archaic Income Tax legislation which has not responded to organised crimes.

Unfortunately there is no reliable and credible data to establish the extent of IFFs in Zimbabwe and measuring illicit flows is difficult as these transactions are illicit in nature and opaque by design. However, (Ndikumana & Boyce, 2008) and (UNCTAD, 2009), points

³ Upon request through a Letter of response dated 28 July 2014

to the existence of IFFs in Zimbabwe, which are worth examining. Consistent with this, ZIMRA through their airport scanners have managed to confiscate the following animal skins and ivory products that were illegally destined for international markets, over the period 2011 to 2013, (Table 1).

Table 1: Wildlife Artefacts Seizures at the Harare International Airport 2011 to 2013

Item	2011	2012	2013
Rhino horns recovered	2	6	8
Rhino horns seized	4	0	1
Tusks recovered	122	158	197
Crocodile artefacts	58	63	64
Warthog artefacts	1	7	0
Impala artefacts	0	1	0
Hippopotamus	0	2	0
Ivory artefacts	236	278	1073
Ostrich artefacts	20	23	24
Buffalo artefacts	0	1	8

Source: Parks and Wildlife management Authority Zimbabwe

In mining, IFFs were noted in the diamond sector, wherein, according to the Kimberly Process Certification Scheme (KPCS) Monitor, Zimbabwe sold at least US\$30 million worth of diamonds from Marange, which Treasury and ZIMRA had no record or knowledge of, (MoF 2010). Whilst IFFs arise from illegal activities, it is noted that they can also arise from legal activities, for which money due to the country is not declared. The (RBZ, 2014) noted that as at 30 June 2014, the total overdue export proceeds amounted to US\$303.2 million. Of this amount, US\$108.4 million accumulated between 2003 and 2009 is not recoverable owing to the following reasons:(i) Some exporters engaged in unauthorised set offs of export proceeds

against value of imported goods; (ii) Some companies declared external receivables as bad debts without seeking approval from the Reserve Bank; (iii) Some consignees faced operational challenges and ended up being closed or were liquidated; (iv) Some exporters relocated outside the country without notifying the Reserve Bank; and (v) Some exporters who have been under sanctions had their export proceeds seized by the US Department of the Treasury through the Office of Foreign Assets Control (OFAC).

Whilst the US\$108.4 million has been declared unrecoverable, there is concern as to whether the remaining US\$194.8 million would be fully recovered, for the benefit of the economy. It is, therefore, worth noting that IFFs erode revenues that could have been used for domestic expenditure in growth –supporting investments in both public and private infrastructures. This is particularly important at a time when the country is facing serious fiscal space constraints that result in underfunding of the public sector investment programme. For instance in 2013, total expenditures amounted to US\$4.057 billion of which capital expenditures amounted to a mere US\$391 million, about 9.64% of total expenditures, (MoFED, 2013). Hence, debate over strategies to increase development financing in Zimbabwe cannot overlook strategies to curb leakages of financial capital from the country. If estimates of IFF from Zimbabwe of about US\$18 billion over 1970 to 2003, are indicative of the extent of development capital that economy could have used to finance growth enhancing infrastructure or other activities that could bolster the development of the country.

2.0 ASSESSING THE DRIVERS OF ILLICIT FINANCIAL FLOWS IN ZIMBABWE

2.1 Illicit Flows in the Mining Sector

To understand what drives IFFs in the mining sector, it is important to first understand the channels of IFFs in the mining sector. According to (Le Billon, 2011), the channels for IFFs in the extractive sector are corruption, illegal resource exploitation and tax evasion and avoidance. IFFs from corruption include funds from bribery and theft by government officials. Under illegal resource exploitation, IFFs arise due to the following:

- Operating outside the confines of licensed areas, e.g. extracting resource from outside a concession, or beyond contractual limitations, extracting extensive quantities of mineral under an “exploration” license that only authorises sampling;
- Underreporting the volume or quality of ore produced - e.g. through biased volume measurement or misreporting the grade of ore in cases where measurement involves technical expertise and equipment; and
- Failure to respect environmental and social regulations on waste-water disposal or workers’ exposure to chemicals. Compliance with environmental and social regulations is costly for companies, and this triggers corruption through compliance avoidance, lowering of standards, and demand for “facilitation payment” is high. Non-compliance generates IFFs by illegally increasing profits, especially if the profits are not taxed or the company declares false compliance expenses.

Tax avoidance occurs at the contract negotiation phase where firms seek favourable financial and operational terms and conditions through corrupt practices such as payments by companies to public

officials to secure better terms. Tax avoidance may also occur through getting tax advantages without breaking tax regulations. Usually, firms avoid tax by reducing taxable income through inflating costs by under and over-invoicing. Tax avoidance becomes tax evasion when tax regulations are broken. Tax fraud occurs when falsified papers are involved. Major channels of tax evasion are under-pricing of minerals and underreporting of production, partly due to uneven and inadequate enforcement by tax authorities, facilitated by corruption and collusion where oversight and accountability lack (Le Billon, 2011).

According to ZIMRA,⁴ tax evasion by multinational and other companies is mainly through some of the following channels: charging exorbitant management fees, charging high interest rates on loans from related companies, re-invoicing, (agent arrangement where the market price is received by foreign agent), agency arrangements, (where an agent is engaged where there is no service being rendered by the agent), charging low export prices to related companies, overpricing imports and improper allocation of head office expenses. On the other hand, tax avoidance schemes include: claiming capital allowances, holiday allowances or tax concessions and treaty shopping.

2.2 Main Drivers of Illicit Flows in Mining

Illicit financial flows in the mining sector are mainly driven by the following factors: corruption, dysfunctional regulation, weak enforcement of rules, money laundering, tax evasion, tax avoidance, need to conceal earnings, and need to obtain extra foreign currency (Boyce & Ndikumana, 2012). Furthermore, lack of transparency in the collection and management of natural resource revenues also

⁴ Upon request through a Letter of response dated 28 July 2014

explain the increase in IFF (Murisa, 2013). Financial institutions and tax havens which facilitate IFFs, overvaluation of domestic currency, high and persistent budget deficits, excessive external borrowing, and political instability are other reasons behind IFFs (Mevel, 'Ofa & Karingi, 2013). According to (Kar & Cartwright-Simth, 2006), portfolio diversification and fears of inflation are other motivations for capital flight.

While some other factors may apply in the case of Zimbabwe, some may not apply especially over the period 2009 to date. For example, the need to obtain extra foreign currency, overvaluation of domestic currency, high and persistent budget deficits, and fears of inflation are largely invalid following the adoption of the multi-currency regime in 2009 and the cash budgeting policy framework which induced low inflation rates.

Lack of transparency and accountability in the manner in which mining deals are negotiated and transacted, and the way in which revenue is accounted for in the mining sector is also a major driver of illicit financial outflows from the sector (see section 5.1.1 on the legal and institutional framework for the mining sector). Transparency and accountability in the extraction of mineral resources helps minimise leakages and enhance revenue collections from minerals. The contribution of the mining sector to the fiscus relative to the revenues it generates is below its potential (GoZ, 2011).

There is limited disclosure of information in the extractive sector in Zimbabwe (Revenue Watch Institute, 2013). The public knows very little about licensing processes and contractual arrangements with mining companies, while contracts are not disclosed and environmental impact assessments are available only for very high fees. The Ministry of Finance publishes current information on mineral production, prices, exports, investment, production costs,

royalties, and dividends. The Zimbabwe Revenue Authority (ZIMRA) does not provide sector-specific revenue data, and the Mines and Mining Development Ministry publishes little or no information on extraction. The Reserve Bank of Zimbabwe (RBZ) publishes historical data only. Disclosure of information on contract negotiations, licensing and revenues reduce corruption by making the information available for public scrutiny (Revenue Watch Institute, 2013).

2.3 Illicit Flows in the Wildlife and Fisheries

The trade in live animals and the parts of dead animals globally, is estimated to be around US\$5 billion annually, and nearly a third of this trade is through illicit means.⁵ Each year hundreds of millions of animals are caught from the wild and then sold as food, pets, accessories, souvenirs and medicine. Increases in personal incomes in countries such as China and other emerging economies has resulted in the increase in illegal wildlife trade across the world and threatening the existence of key species such as rhinos, elephants and tigers. According to the World Wide Fund for Animals, the Illegal trade in wildlife is the most profitable illegal business behind drugs, human trafficking and counterfeits.⁶ The illegal trade in wildlife is mainly driven by high profit margins especially from high prices paid for rare species and animal parts perceived to be of great value and significance in communities.

The most lucrative product in illegal wildlife trade is elephant ivory. Trading in elephant ivory has gained more visibility than issues involving other wild animals due to brutal means used in obtaining ivory that is, poaching. Zimbabwe, together with other States in Southern Africa is home to more than 85% of the known

5 http://www.wmf.org/what_we_do/stop_illegal_wildlife_trade/

6 http://www.wmf.org/what_we_do/stop_illegal_wildlife_trade/

African Elephant population, hence the escalating incidences of poaching of elephants in the country. Since 1997, Zimbabwe has been allowed to export ivory carvings for non-commercial purposes under Convention on International Trade in Endangered Species (CITES), however, some CITES Parties have stricter domestic measures and do not accept such imports even with the appropriate CITES documentation.

The illegal trade in wildlife and fisheries is an important component of IFFs and the global value of Illegal, Unregulated and Unreported (IUU) catch range is estimated to be worth billions of dollars (Global Ocean Commission, 2013). Illegal trade in wildlife is intertwined with drug trafficking, labour exploitation, environmental degradation, and organised crime. With regards to fisheries, the Food and Agriculture Organisation (FAO) defines Illegal, Unregulated and Unreported (IUU) fishing as follows:

- i. Illegal fishing refers to activities, conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations or in violation of national laws or international obligations;
- ii. Unreported fishing refers to fishing activities, which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; and in contravention of the reporting procedures of that organisation; and
- iii. Unregulated fishing refers to fishing activities done in a manner that is not consistent with or contravenes the conservation and management measures of that organization.

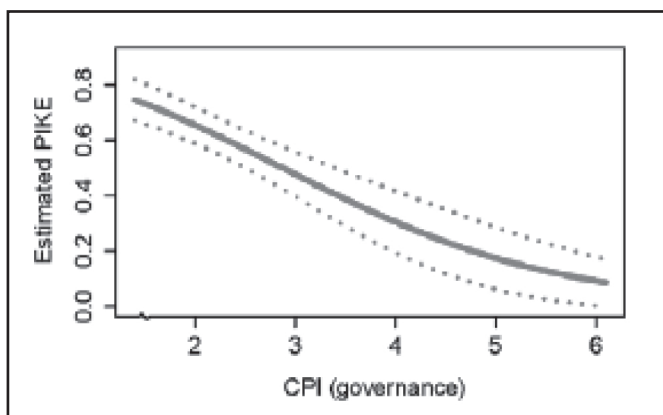
2.4 The Main Drivers of Illicit Flows in the Wildlife and Fisheries

Weak Governance and Corruption

According to Transparency International Corruption Perception Index (2013), the country is ranked 157 of the 177 countries and has a low score of 21 out of a possible 100, where scale from 0 (highly corrupt) to 100 (very clean). Weak governance and collusive corruption have allowed poachers to threaten or bribe security personnel tasked with overseeing wildlife management. For instance in 2013, two elephant poachers who were arrested over the killing of more than 100 elephants in Zimbabwe's Hwange National Park, implicated some police officers whom they allegedly paid bribes amounting to US\$10, 000 to facilitate the release of a vehicle that was intercepted carrying ivory in Harare. The gazetted penalties for poaching are inadequate to deter future poaching activities; penalties imposed by the courts of law are usually small fines and are often lower than the estimated illegal benefit/ value obtained by the poachers.

The Monitoring of Illegal Killing of Elephants (MIKE) programme (2013) of CITES undertook a study to determine the drivers of illegal trade in wildlife. Using the Proportion of Illegally Killed Elephants (PIKE) as a proxy for the illegal trade in ivory they noted that there is a strong correlation between the PIKE ratio and the indicators of governance in countries under study, Zimbabwe included. This implies that the implementation of legislation monitoring the illegal trade in ivory and rhino horn in the source countries is weak and remains a problem for many governments lacking the resources. The study noted that countries with better law enforcement capacity tend to experience lower levels of wildlife poaching (Figure 1).

Figure 1: Relationship between Proportion of Illegally Killed Elephants and Level of Governance



Source: CITES (2013): CoP16 Doc. 53.1

Demand and Supply Mismatch

In 1989 the CITES banned the international trade in elephant ivory, resulting in dwindling supply of official ivory on the global market. However the rising affluence and disposable income in consumer countries has increased the demand for wildlife products which are considered to be luxury goods. In China and other Asian countries, ivory and ivory products are regarded as status symbols and essential ingredients in traditional treatment of certain ailments. The rising incomes in Asia are driving the demand for ivory and fuelling the illicit trade in elephant ivory and rhino horns, from Africa. The growing migrant Chinese workers living in Africa are also driving demand as they seek to possess ivory in an effort to gain and match the social standing of the affluent in their home countries.

Over the years, the price of ivory has gone up from about US\$100 per kilogram in 2006 to US\$1,800, in 2014, creating a lucrative black market which has resulted in the scaling up of the illegal trade

in elephant ivory. The illegal wildlife trade, and the poaching that feeds it, is rising with poaching incidents becoming more frequent and occurring in previously safe areas and the poachers becoming increasingly organised (Wylers S, 2013). With Zimbabwe being home to the third largest national park in Africa, Hwange National Park which has the largest herd of elephants in Africa and host a diversity of wildlife, it makes the country a potential source of illegal ivory to supply the gap in international ivory market. China has become the world's largest consumer of illegal ivory hence fuelling the international illegal trade in ivory. Evidence from CITES(2013) pointed out that the estimated proportion of illegally killed endangered wildlife such as elephants and rhinos, levels tend to be positively related to patterns in consumer spending in China and the relationship was observed not to hold for other traditional destination markets for ivory.

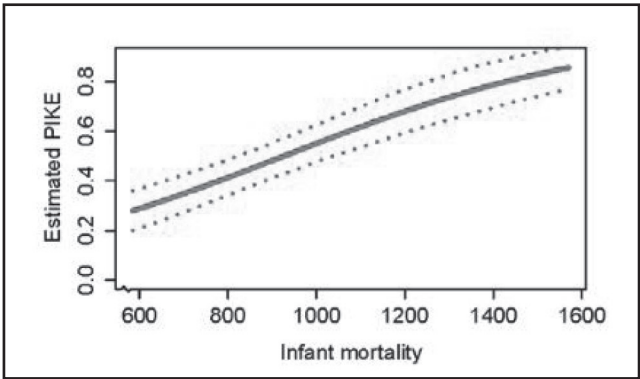
Price Mismatch

During the decade long economic crisis in Zimbabwe between 2002 and 2008, the government instituted price controls on most goods which meant that there were price mismatch with other countries across the borders. According to the (RBZ, 2005), this resulted in instances where price returns were high across borders. Fishermen in Zimbabwe took advantage of the situation and resorted to illegal, unreported and unregulated fishing and smuggling of fish especially fish from Lake Kariba to Zambia at night. The fishermen would meet with their Zambian counterparts in the midst of Lake Kariba to exchange fish for foreign currency. Illegal fishing is linked to the illicit flow of funds in Zimbabwe and is rampant at Lake Kariba and along the Zambezi River, where fish caught illegally in Zimbabwe is smuggled into Zambia and Mozambique, respectively.

Increased Poverty and Illegal Trade in Wild Life

Poverty in communities nearer to wildlife areas has also allowed the illegal trade in wildlife to reach unprecedented levels. Communities close to game reserves are usually in semi-arid areas and they encounter droughts and crop failures leading to high incidences of poverty. Organised crime syndicates take advantage of the poverty stricken community members to recruit them as associates in illegal harvesting and trading of wildlife. In this regard poaching or illegal hunting will be viewed by locals as a way out of poverty. The Zimbabwe Chronicle of 5 October 2013 reported that the Tsholotsho community which is adjacent to the Hwange National Park, is being exploited by illegal ivory trading syndicates who paid them as little as US\$500 to kill an elephant, with the syndicates selling a pair of tusks for as much as US\$17 000. As a result more than 95 elephants and other animals were killed by cyanide poisoning. This story is an indicator that illegal trade in wildlife is a major conduit IFFs.

Figure 2: Relationship between Proportion of Illegally Killed Elephants (PIKE) and Proxy for Poverty



Source: CITES (2013): CoP16 Doc. 53.1

Using human infant mortality as a proxy for poverty in elephant countries, the CITES (2013), MIKE programme found strong positive correlation between the proportion of illegally killed elephants and infant mortality indicating that countries suffering from high levels of poverty experienced high levels of wildlife poaching (Figure 2). This suggests that there may be a greater incentive to facilitate or participate in the illegal killing of elephants in areas where human livelihoods are insecure and thus their findings are consistent with the hypothesis that poverty is correlated with levels of illegal killing and trade in wildlife.

Tax Evasion and Exchange Control Evasion

According to the (RBZ, 2005) some safari operators engaged in illegal wildlife trading by way of under-declaring of trophy proceeds or not reporting hunting proceeds for export purposes thereby avoiding paying statutory obligations to government. These leakages of foreign currency are kept in offshore destinations through unofficial channels. Thus some safari operators use 'Agents' abroad for collection of revenue offshore and the proceeds are stashed in trust accounts and foreign bank accounts. Whilst in the Fisheries Industry Statutory Instrument 45 of 2014, Parks and Wildlife Management Authority (Tariff of Fees) By-Laws, states that Kapenta fishing permits for commercial fishing in Lake Kariba will be charged based on their turnover with US\$2,500 being the base price. Thus there is an incentive for the fishing vessels to under report their catch, subsequently their turnover to avoid paying more for the fishing permits.

2.5 Illicit Flows in Timber

Illegal logging takes place when timber is harvested, processed or traded in violation of national laws applicable in the country of harvest (European Commission, 2008). Illegal logging is a

global phenomenon but only varies in scale and impacts on the environment or society in general. Hembery, *et al* (2007) highlight that this may occur on a very small scale with limited impacts in some countries but is a major problem that poses a serious threat to forests, communities, and wildlife in a significant number of countries. World Wildlife Fund International in 2002 showed that in Africa, rates of illegal logging vary from 50% for Cameroon and Equatorial Guinea to 70% in Gabon and 80% in Liberia.⁷ Further it has a particularly devastating effect on biodiversity because the perpetrators often deliberately target remaining high-conservation-value forests, including protected areas, which contain the highly valuable hardwood species that have been overexploited elsewhere. Some of the negative impacts of illegal logging include loss of natural forest resources and lost tax revenues and other social effects.

There are many drivers to illegal harvesting and trade of timber, including, the lure of financial profits in cases where apprehension risks are low. This situation is promoted by weak government institutions, poorly designed policies and half-hearted or non-existent law enforcement and monitoring either as a result of a lack of resources or, in some cases, outright corruption (Contreras-Hermosilla *et al*, 2007; Elias, 2012).

2.5.1 Main Drivers of Illicit Flows in the Timber

Area by land use in Zimbabwe shows that natural forests which are tropical or rainforests constitute 0.03% while exotic plantation and indigenous woodlands constitute 0.4% and 65.92% respectively. The rest of the land systems are grasslands, cultivated land, settlements and other (rocks and water bodies (Shumba, 2001).

7 WWF International (2002) *The Timber Footprint of the G8 and China*<http://www.wwf.org.uk/filelibrary/pdf/g8timber-footprint.pdf>

There is very scanty literature and data that traces the existence of illegal logging and exports of timber in Zimbabwe. Further, interviews with the Forestry Commission indicated that whilst illegal export may be taking place in Zimbabwe, not to their knowledge, it is so minute that it does not warrant any reporting, (see section 3.3.2, on evidence of illicit timber trade). What is well documented however is the alarming depletion of the country's forests through illegal activities motivated by domestic consumption. Main actors in such illegal activities are logging companies with links to powerful politicians, illegal forestry settlers and timber poachers. Zimbabwe forests are also vulnerable to forest fires, deforestation, financial and operational problems facing the Forestry Commission and the land reform programme that have led to the rapid loss of the country's precious hardwoods (Southern African Land and Agrarian Reform Network, 2010; Timber Producers Federation⁸). Conservation International reported that the total forested area in Zimbabwe was 15.6 million hectares in 2012, but the country has been losing its forest at a rate of 327,000 hectares per year, leaving the country as one of ten countries with the largest annual net loss of forest area between 1990 and 2010.

There are direct and underlying drivers to illegal logging in Zimbabwe. The former include land reform that resettled families in indigenous forest reserves and national parks, uncontrolled bushfires, wood extraction for fuels and logging. Given that the majority of the rural population rely on firewood as the only source of energy, forest depletion is quite high in Zimbabwe. The underlying drivers are the weak policy and legal frameworks in addition to their inconsistencies, socioeconomic poverty, and very high unemployment in Zimbabwe that leaves people with limited alternative sources of livelihood. The other challenge is that of insecurity of land tenure. Households that

8 <http://www.newzimbabwe.com/news-15186-Settlers+destroy+30+000+hectares+of+timber/news.aspx>

have been resettled do not have titles to their land and this lack of ownership exposes indigenous forests to exploitation.

2.6 Estimating the IFFs from Zimbabwe

As highlighted in the Methodology section, a variant of the trade Mis-pricing Model has been employed to estimate the IFFs for the four sectors of mining, wildlife, fisheries and timber, over the period 2009- 2013. The estimates show that a cumulative total of US\$2.85 billion might have escaped the country through illicit means, (Table 2).

Table 2: Estimates of IFFs from Mining, Wildlife, Fisheries and Timber, from 2009 - 2013

	2009	2010	2011	2012	2013	Cumulative Total
Mining	365,393,646.00	691,094,197.00	873,575,293.00	863,265,453.00	-	2,793,328,589.00
Wildlife	-	-	7,547,750.00	3,804,000.00	3,718,500.00	15,070,250.00
Fisheries	1,310,916.64	1,316,487.09	4,566,478.36	9,516,720.24	11,335,964.69	28,046,567.02
Timber	5,344,090.00	766,730.00	4,341,780.00	4,777,290.00	2,071,500.00	17,301,390.00
Total	372,048,652.64	693,177,414.09	890,031,301.36	881,363,463.24	17,125,964.69	2,853,746,796.02

Source: Authors' Compilation

According to the pioneering work by (Baker, 2005), corruption activities take up to 5% of IFFs, whilst criminal activities and commercial activities account for 35% and 60% of IFFs, respectively. Applying this rule of thumb to Zimbabwe, it can be estimated that US\$142.69 million of the IFFs from Zimbabwe over the period 2009-2013, were due to corrupt activities and bribery across the four sectors, whilst criminal activities accounted for US\$998.81 million with the remainder of US\$1.71 billion, due to large multinational commercial transactions.

2.6.1 Estimates of IFFs in the Mining Sector

Bilateral data for Zimbabwe and its trading partners in ores and metals was analysed over the period 2009 to 2013. The analysis was based on reported statistics for Zimbabwe's exports of ores and metals to each of its trading partners in the world with the reported imports of ores and metals by the rest of the world from Zimbabwe. Ideally, Zimbabwe's exports to the rest of the world should match with what the rest of the world is reporting to have imported from Zimbabwe, any difference is thus assumed to be IFFs after adjusting imports for insurance and freight using a co-efficient of 1.1 as per IMF DOTS practice.

Ores and metals as classified in Standard International Trade Classification (SITC) sections 27, 28 and 68 were used to estimate IFFs from all mineral products lumped together. Although some metal products are also included in this classification, it captures all minerals. Most of Zimbabwe's trading partners did not record what they imported from Zimbabwe in at least 1 period. As a result, including all trading partners in the estimation gave rise to errors attributed to missing data. To avoid these errors, all trading partners that had missing data were dropped from the estimation. Consequently, a sample size of six countries was used to estimate IFFs, and these countries are Belgium, China, Germany, Japan, South Africa and United States of America (USA). The United Nations Commodity Trade Statistics Database (UNCOMTRADE) was used to get the statistics.

If exports reported by Zimbabwe are lower than the imports recorded by its partners (after adjusting for insurance and freight), then this would be indicative of trade mis-invoicing and or smuggling.

Table 3: Exports from Zimbabwe less Imports recorded by each country in US\$000

Country	2009	2010	2011	2012	TOTAL 2009-12
Belgium	4,199.469	3,830.230	29,667.576	33,207.239	70,904.513
China	(6,290.870)	(38,326.810)	(62,078.361)	73,360.187	(33,335.854)
Germany	(16,256.836)	(15,374.677)	(4,539.632)	(23,349.870)	(59,521.014)
Japan	(15,471.891)	(27,993.483)	(42,471.433)	(20,257.981)	(106,194.788)
South Africa	361,194.177	687,263.967	843,907.717	756,698.026	2,649,063.888
United States	(9,552.885)	(15,723.395)	(7,565.437)	(7,361.502)	(40,203.218)
TOTAL (+ve)	365,393.646	691,094.197	873,575.293	863,265.453	2,793,328.401
TOTAL (-ve)	(47,572.481)	(97,418.365)	(116,654.863)	(50,969.353)	(312,615.06)

Source: Own calculations from UNCOMTRADE data

The results indicate that between 2009 and 2012, due to export under-invoicing, Zimbabwe lost about US\$239 million in IFFs. Illicit financial outflows emanate from bilateral trade between Zimbabwe and China, Germany, Japan and USA. Most of the loss emanated from Zimbabwe's trade with Japan, which contributed about 44.4% (i.e. US\$106 million) of the illicit financial outflows. The lowest outflows were between Zimbabwe and China, contributing 13.9% (i.e. US\$33 million) of the outflows. There was an upward trend in illicit financial flows between 2009 and 2011, with the highest out flows of about US\$117 million recorded in 2011. However, in 2012 the illicit financial out flows declined to about US\$51 million.

The results also show export over-invoicing. Export over-invoicing can also be a measure of illicit financial flows, given that exporters would be trying to smuggle out certain illegal products by pretending to sell a certain product. In this case, exporters would be selling other products but using the mining sector as a front to cover for such an activity. This is mostly expected for the leading trading partner, where traders can illegally transfer their products under the

guise of a genuine export product and recover their money through other means. Thus, between 2009 and 2012, export over-invoicing totalled US\$2.79 billion, for which South Africa contributed 97.4% of the illicit flows. This shows that the mining sector could have been used as a cover to transfer about US\$2.79 billion worth of other commodities out of the country. Therefore, the total illicit outflows would amount to over US\$3.1 billion if export under-invoicing is taken into account.

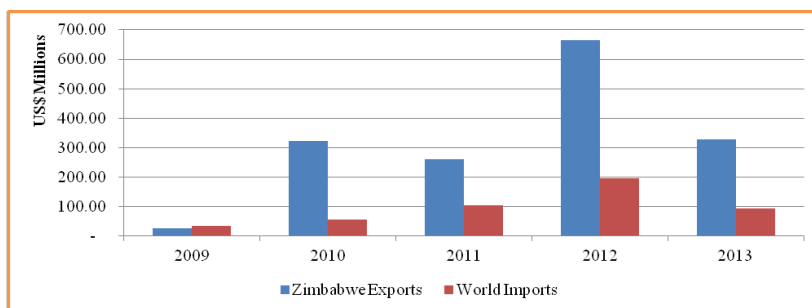
Given that diamonds are a significant component of the mineral products exported from Zimbabwe, the mismatch between exports and imports can also be explained by the sanctions regime that undermined transparency of diamond mining and trading in Zimbabwe. Many trading partners were not declaring their trade in diamonds with Zimbabwe due to fear of sanctions from the international community. Thus, imports from Zimbabwe would be grossly understated as a way of hiding the trading volumes. This implies that a situation where exports declared by Zimbabwe exceed the imports reported by the partners might not entirely reveal illicit flows but actually the unofficial trade in mineral products, including some flows which could have benefited the government. However, given the lack of transparency in diamond trade, such resources have also been abused, with treasury indicating that it was not getting the expected inflows from diamond sales. For example, only US\$45 million was received by treasury from the expected US\$600 million in 2010, and for the six months from January to June 2012 shortfalls in diamond dividends amounted to US\$229.3 million (MoF2012).

Export over-invoicing could also be an indication of the amount of illicit resources that would be flowing into the country. If this is the case, over the period 2009-2012, Zimbabwe could have received about US\$2.7 billion in IFFs. Since South Africa constituted about

97.4% (i.e. US\$2.6 billion) of the illicit financial inflows, this would reflect that there are a lot of resources that are flowing out of South Africa into Zimbabwe illicitly through trade in minerals. This would imply that while the country is losing out through illicit flows, it is actually a net beneficiary, having benefited from net illicit financial inflows of over US\$2.5 billion over the period 2009-2012.

To estimate the extent to which diamond trading can explain this mismatch, diamonds export from Zimbabwe⁹ as reported by ZIMSTAT can be compared with the statistics that the whole world reports as imports of diamonds from Zimbabwe, based on the United Nations Commodity Trade Statistics Database (Figure 2). After adjusting for insurance and freight, it is quite apparent that it is generally trade in diamonds that is contributing to the mineral export over-invoicing trend that has been observed.

Figure 2: Diamond Trade between Zimbabwe and the Rest of the World, 2009 - 2013



Source: ZIMSTAT and UNCOMTRADE

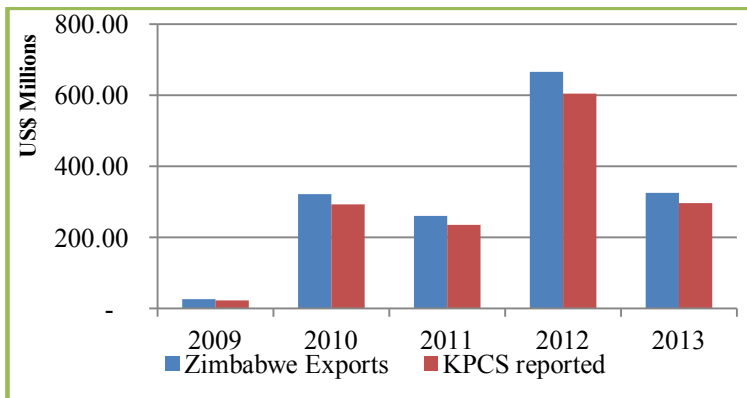
It was only in 2009 that export under-invoicing was apparent, as data for all subsequent periods show that most of the country's

⁹ Under the HS Codes 710221; 710231; 710239 and 710210

diamond exports were not being under-recorded by the rest of the world. Between 2009 and 2012, diamonds worth US\$1.1 billion left the country but could not be matched by what trading partners reported to have received. The country was thus prejudiced a significant amount from all this, with 2012 alone contributing about 42% to the untraceable trade. This can be attributed to the fact that Zimbabwean gems were not open to trade as the country had, until 2010, not been certified to export by the KPCS, hence some of the diamond sales were through unofficial channels.

The same pattern is also apparent if statistics from ZIMSTAT are compared with those that are captured by the KPCS database (Figure 3). However, the KPCS values are closer to ZIMSTAT values than those captured under the UNCOMTRADE database.

Figure 3: Diamond Trade between Zimbabwe and the Rest of the World: KPCS database, 2009 - 2013



Source: ZIMSTAT and KPCS

Based on the KPCS, diamonds worth about US\$145.6 million were among those reported to have left the country by ZIMSTAT but could

not be matched by what trading partners reported to have received. While this is far less than the amount reflected by UNCOMTRADE, it also shows that there is a significant amount that seems not traceable. Given the high volumes of trade recorded, 2012 accounts for about 41.6% of the unaccounted trade flows during the period.

2.7 Estimating the Quantum of IFFs in the Wildlife and Fishery Sectors

2.7.1 Wildlife sector

Illicit flows from the wildlife and fisheries sector generally arise from illegal trade in live animals as well as associated products from their killings. Trade in wildlife generally constitute a crime as it violates both domestic and international laws such as the CITES. Thus, proceeds from the trade largely do not flow through official channels and are difficult to track and estimate.

The most lucrative products in illegal wildlife trade are elephant ivory. Efforts to control the trade has gained more mileage than trade in other wild animals due to the brutal means used in obtaining ivory as well as concerns on the dwindling elephant population. The number of elephants illegally killed can thus be used as a close proxy to illicit flows from trade. However, not all illegal killings are motivated by ivory; as the illegal killing of elephants also includes cases where illegal killings are prompted at times by defence of human life. In Zimbabwe few elephants are killed illegally in defence of human lives as rowdy elephants are usually taken care of by professional wildlife rangers.

In order to estimate the flow of illicit finance from the illegal trading in ivory, the study will utilise data from the Parks and Wildlife Management Authority of Zimbabwe. The ivory sourced from elephant poaching is then supplied to the international black market

for ivory to satisfy the increasing demand for ivory in Asia. Although statistics from the Parks and Wildlife Management Authority of Zimbabwe is reliable, it has weaknesses in that some elephants die in places where their carcasses cannot be discovered, implying that the reported carcasses could understate the share of illegally killed elephants.

Table 4: Estimating the Illegal Trade in Elephant Ivory and Rhino Horn from Zimbabwe

	Number of illegally killed elephants	Estimated number of tasks	Estimated total weight @ an average 25 Kg per elephant	Estimated value of the Ivory at US\$170/Kg ¹⁰ in US\$	Number of Rhinos (horns) Poached	@US\$150000 ¹¹ per horn	Total IFFs (elephant + rhino) trade
2011	223	446	5575	947,750.00	44	6,600,000.00	7,547,750.00
2012	212	424	5300	954,000.00	19	2,850,000.00	3,804,000.00
2013	293	586	7325	1,318,500.00	16	2,400,000.00	3,718,500.00

Source: Parks and Wildlife Management Authority Zimbabwe,
Authors Own calculations

There are difficulties in collecting and recording accurate raw ivory prices from the international black market as the trade is illegal and there are no official records. In 2011 for example an estimated 223 elephants were killed, although the ivory from these elephants would not have been sold even if they had not been killed, the loss of the elephants as well as the ivory through smuggling outside the country can be considered an illicit flow of funds from the country. Thus, illicit flows from the country can be estimated at about 5575kg (5.6 tonnes) worth of ivory in 2011 (Table 4). Thus, based on the pricing provided in Statutory Instrument 45 of 2014 (Parks and Wildlife Management (Tariff of Fees) By-Laws, 2014) of US\$170 per Kg which is used to estimate the value of intercepted

¹⁰ Under the HS Codes 710221; 710231; 710239 and 710210

¹¹ Rhino horns can fetch as much as US\$100,000.00 per kg of which a horn can average 1,5 to 3kg

or recovered ivory although it is three to four times less than what is prevailing on the international black market, thus the estimated cost of ivory lost in 2011 was estimated to be worth US\$947,750. In this regard, it can be noted that between 2011 and 2013, the country lost US\$3,220,250 to illicit killing and selling of ivory. We further estimate that the country illicitly lost a cumulative US\$11,850,000.00 from the illegal killing and sales of rhino horns over the period 2011-2013.

One possible methods of quantifying the value of resources lost through poaching and illegal trade in ivory, is trophy hunting fees. Each elephant has a value that can be estimated based on how much trophy hunters would have paid for it. Thus, poaching is an opportunity cost to the country as it denies the country to enjoy such benefits from hunting. On average the elephant trophy fees charged can be estimated at US\$9,600 for the period between 2005 and 2011, depending on the weight of the elephant tusk based on the fees Schedule provided in Statutory Instrument 45 of 2014, Parks and Wildlife Management (Tariff of Fees) By-Laws 2014 (Table 4). Additional costs incurred for the hunt such as accommodation and transport averaged US\$1250 per day, with a minimum of 10 hunting days (Table 4). The revenue which the country loses due to illicit ivory trade transcends the equivalent value of the ivory in formal markets, to possible revenues from daily hunting fees and meat sales. The country lost estimated total revenue of US\$1 million, in 2009 that included revenue from safari hunting, meat sales and government levies. Thus, from the illegal killing of the elephants, the estimated total revenue lost stood at US\$5,337,282 in 2011 and increased to US\$7,012,662 in 2013. These can be considered illicit flows out of the country since the death of the elephants denied the country an opportunity to enjoy such benefits. In that regard, it is estimated that for the three year period from 2011 to 2013 the country lost a cumulative US\$17,423,952 (Table 5).

Table 5: Estimating the Cost and Implications of the Illicit Trade in Elephants Products in Zimbabwe: Illegal Ivory Trade

	Number of illegally killed elephants in the country (A)	Trophy fees for Elephant Hunting ¹² (B)	Daily rate for Hunting per elephant (C)	Minimum Hunting days (D)	Potential Revenue lost from safari Hunting (A)[(C)*(D)+(B)]	Average weight of deboned meat Kgs per elephant (E)	Potential Revenue from meat Sales; Price of wet meat @ \$1/kg (E) * (A)*\$1	Potential Government revenue lost 2% levy on daily rates + 4% levy on trophy fees ¹³ 2%[(A)*(C)*(D)]+ 4%[(A)*(B)]	Total Potential Revenue lost
2011	223	\$9,600	\$1,250	10	\$4,928,300	1,200	\$267,600	\$141,382	\$5,337,282
2012	212	\$9,600	\$1,250	10	\$4,685,200	1,200	\$254,400	\$134,408	\$5,074,008
2013	293	\$9,600	\$1,250	10	\$6,475,300	1,200	\$351,600	\$185,762	\$7,012,662

Source: Parks and Wildlife Management Authority Zimbabwe, Authors Own Calculations

2.7.2 Fisheries

Illegal fishing also contributed to illicit flow of funds from Zimbabwe, particularly across major water bodies shared by Zimbabwe and its neighbouring countries like the Lake Kariba and stretches of the Zambezi River where fish caught illegally in Zimbabwe is smuggled into Zambia and Mozambique respectively. According to figures from ZIMSTAT, Zambia is a major destination for Zimbabwe's fish exports. However, it is difficult to determine exactly how much the country has actually lost financially through illegally trade in fisheries as the trade is illegal and accurate estimates are difficult to make.

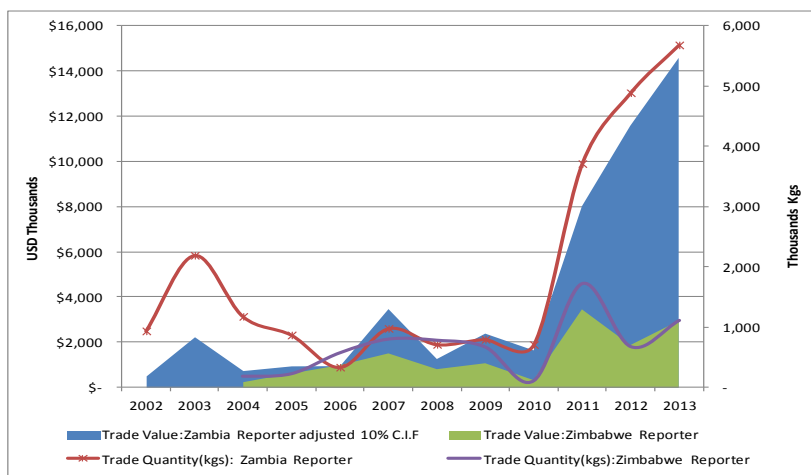
In order to capture the amount of money Zimbabwe has lost through illegal fish trade the study utilises the traditional method of trade mis-pricing, by comparing Zimbabwe's official fish exports to Zambia with Zambia's official fish imports from Zimbabwe based on data from the official country sources as well as data reported

¹² Based on Zimbabwe National Parks trophy hunting fees schedule for Male Elephants with tusks weighing 23 – 25kgs

¹³ The rates were obtained from Graham Sales Safaris at their website www.grahamsalesafaris.com/Zimbabwe/Zimbabwe-rates/ accessed 22/04/14

by UNCOMTRADE. In line with the IMF’s DOTS-based trade mis-pricing methodology, import figures for Zambia were adjusted by 10% to cater for insurance and freight (Figure 4).

Figure 4: Discrepancies in Trade Value and Quantity of Fish Exports from Zimbabwe to Zambia



Source: UNCOMTRADE, Zimbabwe Statistical Agency, Zambia Revenue Authority (2014)

An analysis of the values of trade in fish and fish products between Zimbabwe and Zambia as reported by two countries reveal some huge discrepancies for the years 2007, 2011, 2012 and 2013. Higher figures were reported in Zambia than Zimbabwe implying elements of smuggling and under invoicing of fish products (Figure 3). This shows that most of the fish from Zimbabwe were not captured officially while they were captured on entering Zambia. In 2011, Zambia reported a total trade value of about US\$8.1 million as imports whereas Zimbabwe recorded a total of about US\$3.5 million as exports, leaving a discrepancy of about US\$4.6 million. This can be classified as illicit flows from the fishing industry. In

2013 this increased to about US\$11.3 million. These illicit flows can reflect either smuggling or export under-invoicing or both. The illicit flows are unrecorded and earnings on the illegal transactions might not return to Zimbabwe. Table 5 summarises the illicit flows from Zimbabwe for fisheries from 2007 to 2013. For the period 2009 to 2013, we estimate that the country lost US\$28,046,567.02, through illicit fish smuggling, (Table 6).

Table 6: Estimating the Cost of Illicit Trade in Fisheries in Zimbabwe

	Trade Value as reported by Zambia (adjusted 10% for C.I.F) in US\$	Trade Value as reported by Zimbabwe in US\$	Estimated Potential Revenue lost in US\$
2007	3,473,606.36	1,514,255.00	1,959,351.36
2008	1,266,496.36	817,291.00	449,205.36
2009	2,390,173.64	1,079,257.00	1,310,916.64
2010	1,649,459.09	332,972.00	1,316,487.09
2011	8,026,306.36	3,459,828.00	4,566,478.36
2012	11,585,166.14	2,068,445.90	9,516,720.24
2013	14,583,840.37	3,247,875.68	11,335,964.69

Source: Authors Own calculations from UNCOMTRADE, ZIMSTATS, Zambia Revenue Authority

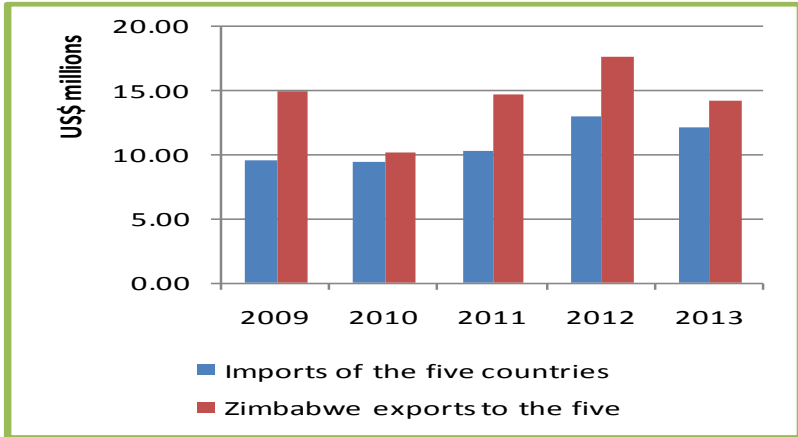
2.8 Estimates of the IFFs in Timber

Discussions with the Forestry Commission pointed out to the difficulties in establishing cases of illegal timber exports. The institution however indicated that such cases are so limited to the extent that their impact in the economy is very minimal due. An attempt was however made at estimating the amount of illicit trade in timber using the trade mis-pricing method.

Data from UNCOMTRADE reveals that Zimbabwe's exports of wood and articles of wood, wood charcoal averaged US\$25, 8 million between 2009 and 2013. An average of 97.4% of this was exported to Botswana, South Africa, Zambia, Mozambique and Namibia. Thus, an analysis of timber trade between Zimbabwe and these five countries would be expected to reveal possible existence of illegal trade and hence illicit funds flow from the country.

By comparing Zimbabwe's exports to these five countries and total imports of timber by these countries from Zimbabwe, it can be established that there was generally over-invoicing of exports (Figure 5). Timber exports from Zimbabwe to the five countries were over-invoiced by about US\$17.3 million between 2009 and 2013. This generally represents illicit trade, which could either reflect the use of timber trading as an attempt to bring in some amount of money that could have been smuggled out through other illicit businesses into the countries or would reflect some illicit outflows of resources from the countries into Zimbabwe through import under-invoicing by the country traders. As expected, over-invoicing was mostly to South Africa, accounting for over 54% of the estimated illegal trade.

Figure 5: Timber Trade between Zimbabwe and its five Main Timber Trading Partners



Source: Author's Computations from the UNCOMTRADE

Since timber exports into the five countries constitute about 97.4% of total timber exports, it can be estimated that the total over-invoicing can be estimated at about US\$17.3 million, over the period 2009 – 2013.

3.0 LEGAL AND INSTITUTIONAL FRAMEWORK TO CURTAIL IFFS

3.1 Existing Legal and Institutional Frameworks for Curbing Illicit Flows

There are different pieces of legislation and fragmented institutional arrangements that deal with illegal flow of capital from the country. Some of the legal provisions, discussed herein, are sector specific and are part of the institutional and regulatory framework governing the exploitation and development of resources in mining, wildlife, fisheries and timber.

Whilst the legal frameworks may be sector specific, the institutional frameworks for the curbing of illegal transactions are rather cross cutting. Zimbabwe has an Anti-Corruption Commission which was established in terms of the Anti-Corruption Act [Chapter 9:22]. Its functions include combating corruption, theft, misappropriation, abuse of power and other improprieties in the conduct of affairs in both the public and private sectors. The Anti-Corruption Commission also makes recommendations to the Government and to organisations in the private sector on measures to enhance integrity and accountability and to prevent improprieties. The Commission, as may be conferred to it by an Act of Parliament, exercises any other functions such as conducting investigations and inquiries, and securing assistance from the Police Force and other investigative agencies of the State, including securing the prosecution of persons for corruption, theft, misappropriation, abuse of power and other improprieties through the Attorney-General.

Furthermore, Zimbabwe is also a member of the Eastern and Southern African Anti-Money Laundering Group of countries

(ESAAMLG), established to take effective measures against money laundering. As such, the country has enacted the Bank Use Promotion & Suppression of Money Laundering Unit which was established in 2004 in terms of Section 3 of the Bank Use Promotion and Suppression of Money Laundering Act [Chapter 24:24]. The Bank Use Promotion & Financial Intelligence Unit falls under the ambit of the RBZ, but has its own governing statutes, giving it a mandate distinct from that of the Central Bank. Its main statutory functions are to receive and analyse Suspicious Transaction Reports (STRs) from financial institutions and designated non-financial businesses and professions, and disseminate the STRs in the form of financial intelligence to appropriate law enforcement agencies for further investigation and /or prosecution. The Unit is also mandated with promoting the usage of banks as a way to combat money laundering as well as promoting financial inclusion. The Unit is the main Anti Money Laundering and Combating Financing of Terrorism (AML/CFT) regulator, but works in close cooperation with supervisory/regulatory bodies of the various types of designated reporting institutions to ensure compliance with their AML/CFT obligations.

In addition to the Bank Use Promotion and Financial Intelligence Unit, there is a National Task Force on AML/CFT which is chaired by the Director of Bank Use Promotion & Financial Intelligence Unit. The Task Force is a forum that brings together law enforcement agencies and other, mostly governmental, institutions that are involved in the fight against money laundering and financing of terrorism. The Task Force coordinates policies and share information on AML/CFT matters. It is composed of representatives from the Financial Intelligence Unit, Zimbabwe Anti-Corruption Commission, Zimbabwe Republic Police [(ZRP), Serious Fraud Squad]), Attorney General's Office, National Economic Conduct Inspectorate, ZIMRA, Department of Immigration, Insurance and Pensions Commission

and Securities Commission of Zimbabwe. Whilst the National Economic Conduct Inspectorate, the ZRP, and ZIMRA are members of the National Task Force on AML/CFT, they are in their own mandates institutions set up to deal with economic crimes including IFFs. The ZRP is constitutionally mandated to investigate all criminal matters and bring the cases before the courts for prosecution. When investigating economic crimes, the ZRP normally involve other specialised units, that is, officers from the RBZ, National Economic Conduct Inspectorate, Forensic Scientists and Investigators from ZIMRA and the Comptroller and Auditor General.

3.1.1 Legal and Institutional Frameworks for Curbing IFFs in Mining

Although there are several legal instruments that affect the extractive sector, the discussion in this section is confined to the Constitution of Zimbabwe Amendment No. 22 ACT 2013 which is the supreme law of Zimbabwe and the Mines and Minerals Act [Chapter 21:06] which is the principal Act governing the other mining acts. This section also looks at the institutional framework vis-à-vis IFFs.

The Constitution of Zimbabwe Amendment No. 22 ACT 2013 provides a solid legal framework for transparency and accountability. Within the Constitution, the State and its institutions are bound by the principle of good governance, which includes transparency, justice, accountability and responsiveness. The Constitution also outlines the principles of public administration which entail accountability to Parliament and the general public. In addition, it provides principles of public financial management which are premised on transparency and accountability in financial matters.

The Mines and Minerals Act [Chapter 21: 05] has provisions designed to curb undervaluation and understating minerals production. For example, section 11 of the Act empowers the Mining Affairs

Board to access books, accounts, plans, and other documents for purposes of assessing applications or carrying out investigations. It also empowers the Board to authorise taking of samples from a mining site which is subject to the Board's investigations. Section 12, subsection 3 provides for penalties applicable for failure to produce books, accounts, plans or any other documents required by the Board and Section 13 provides for penalties for obstructing persons authorised by the Board to take samples. These provisions if implemented can to some extent deal with some forms of IFFs. However, the main shortfall of these provisions is that they are responsive rather than preventive of IFFs. Moreover, these provisions may be undermined by the Access to Information and Protection of Privacy Act (AIPPA), which classifies financial and economic interests of public institutions as protected information.

The Mines and Minerals Act also provides that holders of mining locations, miners and owners of metallurgical establishments should submit returns and reports of their operations to the mining commissioner (Section 382(1)). Further, the Act also requires miners of registered locations to submit annual returns on geological information of their mines to the Director of Geological Survey. The provision of information on mining operations enables authorities to regulate and detect activities that may give rise to IFFs. The Act also confers powers of entry into mining locations to the mining commissioner, the Director of Geological Survey, Director of Metallurgy, Chief Government Mining Engineer and any other Government mining engineer, inspector of mines or other authorised officials (Sections 386(1) and (2)). This facilitates investigations and verification of mining operations that potentially give rise to IFFs. However, concern is on the capacity of the state departments and agencies to carry out the necessary technical investigations and verifications pertaining to the composition and size of deposits.

The Mines and Minerals Act [Chapter 21:05] also attempts to deal with IFFs that arise from exploiting resources beyond a prospecting license. Section 27(1)(a) provides that the prospectors have a right to prospect and search for minerals and clearly states that they should not remove or dispose of minerals except for bona fide purposes of assaying or determining the nature of the mineral with written permission from the mining commissioner. The Act also provide for penalties that deter practices which violate any of its provisions.

Although the Act makes some attempts to deal with IFFs, it has some gaps that promote channels for IFFs. The Act grants the executive excessive discretionary powers in the administration of mineral licensing regime. For example, the Minister may authorise registration as a prospector contrary to the Secretary of Mines' refusal thereof (Section 15(4)(a)). The Minister may also authorise issuing of prospecting licenses contrary to the Secretary of Mines' refusal thereof (Section 20(4)). The President may refuse to approve Exclusive Prospecting Order (EPO) despite the recommendation of the Mining Affairs Board (Section 90(2)). He may also refuse a special mining grant despite the recommendations of the Mining Affairs Board (Section 301(1)). Thus, the executive has overbearing powers and is not accountable to anyone in the process. This opens up opportunities for corruption and rent seeking in the mineral licensing regime. Ideally, administrative discretion should be limited as far as possible, and where it is necessary, it should be guided and limited by law. Unguided or unlimited administrative discretion provides opportunities for corruption as it allows for selective treatment of equally placed potential miners.

In terms of institutions, the apex institution responsible for regulating mining activities in Zimbabwe is the Ministry of Mines and Mining Development, its Mining Affairs Board and the Mining Commissioner.

The Ministry, through its Mining Law and Administration Department is responsible for curbing leakages of minerals out of the country. Licensing requirements are in place to avoid illegal exploitation of mineral resources. The Mining Commissioner grants prospecting licenses, special mining grants, exclusive prospecting orders or mining permits while the Mining Affairs Board deals with mining leases. In order to ensure that miners make royalty payments that they dully owe to Government, the Mining Commissioner has authority to access and inspect books, records, reports and other documents relating to the acquisition, disposal or removal of any minerals for purposes of ascertaining or verifying royalty payments. In addition, the Mining Commissioner has authority to bar miners from disposing of minerals if they fail to submit such information.

The Ministry of Mines and Mining Development and its functionaries are complemented by the Minerals Marketing Corporation of Zimbabwe (MMCZ), Zimbabwe Mining Development Corporation (ZMDC), the Zimbabwe Revenue Authority (ZIMRA), the Environment Management Agency (EMA) and Zimbabwe Republic Police Minerals Unit. MMCZ is responsible for the marketing and selling of minerals, investigating marketing conditions for all minerals, purchasing and acquiring any minerals for its own account and to sell or dispose of the minerals, advising the Minister on all matters relating to marketing of minerals, and encouraging local beneficiation and utilization of minerals. In discharging its roles, the MMCZ is obliged to act in the national interest of Zimbabwe and mining companies. However, the role of MMCZ to market and sell minerals is curtailed as the Minister of Mines uses his powers to grant marketing rights to mining companies (Mtondoro et al, 2013).

ZMDC's key responsibilities are to invest in the mining industry of Zimbabwe on behalf of the state, planning, coordinating and

implementing mining development projects on behalf of the state, advise the minister on all matters concerned with corporate investments in the mining industry, reviewing annually the economic conditions and prospects of the mining industry. The Zimbabwe Republic Police Minerals Unit is responsible for enforcing Zimbabwe's mineral laws. Its main function is to ensure that there is full compliance with the country's mineral laws. ZIMRA collects mining sector revenues that are due to Government. However, ZIMRA is marred with incidences of corruption which lead to revenue leakages. These corrupt activities include bribery of customs officials, false and under declarations, abuse of Certificates of Origin, use of undesignated entry or exit points and abuse of Business Partnership Numbers and travellers' rebate (GoZ, 2011). EMA administers the Environmental Management Act [Chapter 20:27] and ensures that mining companies are compliant with environmental regulations.

3.1.2 Legal and Institutional Frameworks for Curbing IFFs in Wildlife and Fisheries

In Zimbabwe, the legal framework for the management and trading of wildlife is the Parks and Wild Life Act (Chapter 20:14). The Zimbabwe Parks and Wildlife Management Authority (ZimParks) through Section 45 (Control of hunting of specially protected animals) and section 73 (sale and manufacture of articles from trophies) of the Wildlife Act is mandated with the control of hunting, possession, manufacturing and trading in wildlife and wildlife products thereof. The Parks and Wildlife Act Chapter 20:14 of 1996 is also the principal legislation governing the development, control and management of fisheries in Zimbabwe. With section 85, 86 and 90 of the Parks and Wild Life Act regulating and controlling the fishing and the selling of fish, thus subsection (1) of section 90 states that no person shall carry on the business of catching fish in any waters and selling such fish without a permit issued by the authority.

The regulations focus on license limitation, gear and area restriction and controlling mesh size and number of nets allowed per fisher in order to regulate effort. Section 95 of the Act allows for devolution of appropriate authority to district councils who then sublease exclusive fishing zones to local fishing communities. This regulation is used for the management of the inshore fishery in Lake Kariba. Given that the lake is used for recreational purposes fishers have to obtain an annual license, thus Statutory Instrument 45 of 2014, Parks and Wildlife management Authority (Tariff of fees). By-Laws provide a schedule of fees to be charged for fishing in water bodies in Zimbabwe. Fishers can only fish in designated fishing grounds within the lake that have been delimited for specific villages. No fishing is allowed in closed and protected reserves, which include rivers, river mouths and the shoreline adjacent to the lake. At other reservoirs in the country, fishers are issued licenses, which are renewable on an annual basis. The license specifies the dimensions of the nets, their mesh size and the reservoir where they can be used and Statutory Instrument 45 of 2014 empowers Parks and Wildlife Authority officers to request and inspect fishing records to determine level of operations by fishing vessels. Any person found to be in contravention of the sections is guilty of an offence and will be liable for imprisonment.

In addition, the Parks and Wildlife Authority through Statutory Instrument 76 of 1998, Parks and Wildlife (Import and Export) regulations, require exporters of animal trophies and wildlife artefacts, to be in the possession of an export permit. The exporters are also obliged by the Reserve Bank of Zimbabwe to declare their foreign currency earnings and submit a completed Form TR2, after completion of a hunt and before exportation of an animal trophy. This is in line with the RBZ Exchange Control Act (Chapter 22:05) which governs, restrict and prohibit any dealing in or exportation

from Zimbabwe of any property. The completed Form TR2 from the RBZ and the export permit from the Parks and Wildlife Authority are presented to the customs authority at the port of exit, of which failure to present this documentation will result in seizure of the products pending the presentation of the necessary documentation.

The Zimbabwe Revenue Authority (ZIMRA) through the Customs and Excise Act (Chapter 23:02) works hand in hand with the Wildlife Management Authority in curbing smuggling of python skins, crocodiles and ivory products at all ports of entry and exist in Zimbabwe. Measures that ZIMRA has put in place include border patrols, road blocks, site visits, post importation audits, physical searches, whistle blower initiative and cargo monitoring. ZIMRA has also installed scanning equipment at some ports of entry, which has helped in confiscating animal skins and ivory products destined for international markets.

In 1989, Zimbabwe instituted a wildlife benefit-sharing programme, the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) with a focus to benefit the communal areas adjacent to national parks. The objective of the CAMPFIRE programme is to give the local communities co-ownership of natural resources and also benefit from the income generated through trophy hunting, tourism, and live animal sales, and raising animals for meat (Fischer et al, 2005). The Parks and Wildlife Act, granted authority over wildlife resources to elected rural district councils. As a result the CAMPFIRE programme managed to reduce poaching in some areas, as communities started peer enforcement and effecting public arrests thus making poaching more difficult for the outsiders. However, because the management of the CAMPFIRE programmes was vested in local government authorities, they were prone to abuse by officials and intended benefits not reaching the

community. As a result communities lost interest in the management of wildlife and condoned acts of poaching. Cases in point include the Tsholotsho community in Zimbabwe where reports of abuse of CAMPFIRE funds by council officials resulted in the inaction by villagers to curb the poisoning of more than 100 elephants in Hwange National Park in 2013.¹⁴

Zimbabwe became a signatory to the CITES, on 17 August 1981. CITES regulates the worldwide commercial trade in wild animal and plant species. The goal of CITES is to ensure that international trade does not threaten the survival of any species, and Zimbabwe is bound by the conventions resolutions. In 1989, CITES banned the international trade in elephant ivory to protect the elephant population, however Zimbabwe's elephant population was placed on Appendix II lists of CITES where species that are not necessarily threatened with extinction but that may become so unless trade is closely controlled. The international trade in specimens of Appendix-II species may be authorised by the granting of an export permit or re-export certificate.

The country is also a signatory to the Southern African Development Community (SADC) Protocol on Fisheries whose main objective is to have State Parties to the protocol take appropriate measures to regulate the use of living aquatic resources and protect the resources against over-exploitation, whilst creating an enabling environment and building capacity for the sustainable utilisation of the resources. Signatories to the protocol have to harmonise and align their laws and policies in line with promoting the objective of the Protocol.

¹² Based on Zimbabwe National Parks trophy hunting fees schedule for Male Elephants with tusks weighing 23 – 25kgs

¹³ The rates were obtained from Graham Sales Safaris at their website www.grahamsalesafaris.com/Zimbabwe/Zimbabwe-rates/ accessed 22/04/14

3.1.3 Legal and Institutional Frameworks for Curbing IFFs in Timber

The National Environmental Policy and Strategies of 2009, is the key governing forest management. The Strategic direction of forest management in the policy document states that the government will provide incentives for the promotion of sustainable forest management but is not explicit on the issue of illegal logging and trade. The Forestry Commission is mandated under the Forest Act Chapter 19:05 of 1948 revised 1996 to regulate the forestry sector, forestry extension, management of 14 gazetted forests, research and income generation activities. The Commission also administers the Communal Lands Forest Produce Act of 1927 revised 1987 which restricts the exploitation of forest produce by communal area inhabitants is restricted to “own use” and prohibits the sale or supply of any forest produce to any other person. The Forestry Commission works in liaison with the Customs department of ZIMRA at all the country’s border posts to ensure compliance with all timber export requirements.

Part (vii) of the Forest Act (Sections 64-65) provides the basic framework for the control of trade in timber in Zimbabwe. These provisions are further supported by two Statutory Instruments (SIs), i.e., SI 112 of 2001 and SI 116 of 2012. The former prohibits the exportation of 12 indigenous hardwoods in unprocessed or primarily processed forms. These include teak, mukwa, mchibi, po, mahogany, Wooden Banana, Mopane, Msasa, White Syringa, Munondo, Red Mahogany, Marula and Ebony. It requires all indigenous hardwood timber of 12 specified commercial timber species to be exported from Zimbabwe only in a 100% processed form. Thus, exportation of primarily processed indigenous hardwood in the form of battens, baulks, blocks, planks, sheets, strips mining railway sleepers is prohibited. The latter goes beyond the 12 indigenous hardwood

timber species and requires all timber exporters to be licensed and their export consignments inspected before leaving the country.

The other piece of legislation, though not directly linked to IFFs, includes the Environmental Management Act (EMA) Chapter 20:27 which oversees the management of all natural resources; water, soils, air, mineral, forestry and wildlife resources. This Act is administered by the Environment Management Agency (EMA), under the Ministry of Environment and Natural Resources. In addition, at the more decentralized levels, the Rural District Councils Act (RDCA) Chapter 29:13 empowers the rural district councils to enact by-laws to regulate natural resources in the district communal areas while the Traditional Leaders Act Chapter 29:17 provides for traditional leaders to control natural resources within their communities and promote cultural conversation methods.

There is however considerable poaching of timber by illegal settlers and neighbouring communities in case of gazetted forest areas. The Forest Act requires the private land owner to notify the Forestry Commission of his/her intention to harvest timber. The Forestry Commission must in this case inspect the area that is to be harvested and issue a timber movement permit within two weeks. Unfortunately this instrument is not explicit on the need for the inventory and the cutting plan to be in place before the permit is used thereby leaving room for illegal exploitation of timber as Forestry Commission is financially and human resource constrained to effectively monitor such activities. Administration of exploitation of all communal areas rests in the hands of the Minister of Environment through the Rural District Councils.

The Commission has of late established a commercial entity under its portfolio known as Allied Timbers which is responsible for processing

wood into timber for various purposes. As a result, the Commission is more concerned about timber-based forest produce because that is where most of its revenue comes from. The Act also deals with the appointment of forest officers by the Minister whose duties are to enforce the provisions of the Act, including those relating to access to forest areas and possession of forest produce. Section 85 of the Act deals with wrongful possession of forest produce and authorises the Police and Forest Officers to confiscate any forest produce which they reasonably suspect to have been wrongfully acquired and to arrest the person found in possession of such produce. The Forestry Act attaches jail terms and or fines for anyone found committing criminal activities related to illegal timber logging and trade and these include unauthorised felling of trees and movement of timber without license as well as trespassing into private forests without permission.

Internationally, Zimbabwe is a signatory to forest related instruments most of which emerged from the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992. These include the Convention on Biological Diversity (CBD), United Nations Convention to Combat Desertification (UNCCD), the United Nations Framework Convention on Climate change (UNFCCC), Convention on International Trade in Endangered Species of wild fauna and flora (CITES) and the Montreal Protocol. The country is also a party to the United Nations Forum on Forest (UNFF).

Zimbabwe is also actively involved in performance based international initiatives such as the Forest Stewardship Council (FSC). It ratified the SADC protocol on Forests and takes part in the African Forest Forum (AFF). Further it participates in several trans-boundary conservation initiatives with other Southern African countries such

as Angola, Botswana, Namibia, South Africa, Mozambique and Zambia. For example it is involved in the Lower Zambezi Mana Pools Transfrontier Conservation Area (TFCA) with Zambia; Great Limpopo Trans frontier Park with South Africa and Mozambique; Limpopo-Shashe –TFCA with Botswana and South Africa; Kavango –Zambezi TFCA with Angola, Botswana, Namibia and Zambia; as well as the Chimanimani TFTA with Mozambique.¹⁵

3.2 Comparisons of National Strategies to Combat IFFs in the Southern African Region

As in the case of Zimbabwe, regional countries have no explicit laws to deal with IFFs. However, there are several measures in place to fight the illicit flows of money from within their respective countries, which are summarised as follows, (Box 1). Some of the regulatory frameworks which are common in Zambia, Tanzania, Botswana and South Africa, include the anti-corruption Acts, anti-money laundering laws, and financial intelligence Acts. These acts of law are administered by semi-autonomous institutions such as the Anti-Corruption Commissions (or similar institution) and the Anti-Money Laundering and Financial Intelligence units, normally under the armpits of central banks.

¹⁵ http://en.wikipedia.org/wiki/Transboundary_Protected_Area

Box 1: National Strategies to Combat IFFs in Selected Southern African Countries

Zambia

Illicit financial outflows from Zambia are closely connected to corruption and abusive transfer pricing in sectors such as the trade in natural resources, predominantly mineral and wildlife products in the region (Goredema, 2011). In response Zambia created the Anti-Money Laundering Investigations Unit.

An amendment to the act established a Financial Intelligence Unit called the Anti-Money Laundering Investigations Unit. Zambia also, in 1982, established the Anti-Corruption Commission which was responsible for investigation and prosecution of corruption related offences, but however it has now ceased to exist (Ryder 2011). Its experiences informed the state on April Forfeiture. In 2010, the Forfeiture of Proceeds of Crime Act became operational (Goredema, 2011) and its objective was to provide for the confiscation of the proceeds of crime and facilitate the tracing of any proceeds, benefits and property derived from the commission of any serious offence. The act also established a Forfeited Assets Fund which allows the Attorney General to share forfeited proceeds of crime with foreign countries on a reciprocal basis. Critics have already said this step, along with the non-enforcement of asset disclosure rules for political elites, has weakened AML initiatives in Zambia (Mungole, 2010).

With regards to the Extractive Industries Transparency Initiative (EITI), it is spearheaded by the Zambia EITI Council (ZEC). The group is composed of the government, mining companies and the civil society. The country produces EITI reports that disclose revenues from the extraction of its natural resources and companies disclose what they have paid in taxes and other payments and government discloses what it has received.

However, efforts to effectively enforce these regulations are hampered by low human capacities and an apparent lack of support from the government, since some politicians are also involved in the movement of illicit funds especially in the mining sector. Hence, the need for commitment from supervisory boards, ministries and law enforcers, if Zambia is to achieve its goal of fighting corruption and curb the movement of illicit funds.

Botswana

Botswana is well known in the diamond industry and the country's economic development is underpinned on mining revenue from the diamonds. To curb the movement of illicit

financial flows and corruption, the country set up the Directorate on Corruption and Economic Crime (DCEC) in 1994, and currently it oversees both anti-corruption and anti-money laundering measures. The Money Laundering Legislation Act No.19 of 1990 stipulates that any person deemed to have obtained the proceeds of a serious crime if he/she receives payment or reward as a result of an offence being committed, It also houses the Public Education Division (PED), mandated to raise awareness among the population of corruption and its impact (Goredema 2011).

In 2010, the PED division began to offer input in the school curriculum with a view to introduce content on corruption and raising public awareness of the incidence and impact of money-laundering. In 2010 a separate Financial Intelligence Agency (FIA) was established and housed in the Ministry of Finance. The FIA took over the function of receiving and analysing suspicious activity reports and referring them to the Investigations Division at the DCEC. Locating the FIA in the Ministry was a temporary measure for logistical purposes until the agency acquired its own separate premises. The inaugural head was seconded from the DCEC.

In terms of EITI, Botswana has been a supporter of the general principles but for many years it was not a formal subscriber (Jeffries, 2009). Botswana has generally been relatively open regarding receipts from the mining industry. The annual budget documents clearly state total revenues received from minerals. Botswana's reluctance to subscribe formally to the EITI reflects several factors such as secrecy of the diamond industry and the confidentiality of the revenue sharing agreements with De Beers and Debswana (Jeffries, 2009). However, in May 2007, the Government announced that it would subscribe to the EITI.

Tanzania

Tanzania officially inaugurated its EITI Multi-Stakeholder working group in November 2009, consisting government, private sector companies and civil society organizations. Currently, the government is working on a draft Tanzania Extractive Industry Transparency Initiative (TEITI) bill which is supposed to go to Parliament in November 2014, and has produced the third EITI report covering the year 2010 to 2011.

In addition to curbing the incidence of illicit financial flows, Tanzania also criminalised money laundering by establishing the Anti-Money Laundering Act of 2006, which came into effect in 2007. The country also established a Financial Intelligence Unit to investigate money laundering and a national AML strategy was developed to cover the period 2010 to 2013.

In addition, the implementation of the Anti-Money Laundering regime was centred in the Financial Intelligence Unit, housed under the Ministry of Finance. Moreover, Tanzania also established the Prevention and Combating of Corruption Bureau (PCCB) in 2007. The Bureau investigates and analyses suspicious transactions from the Financial Intelligence Units. In terms of international assistance, the AML has not received any significant assistance from the bilateral partners, although various surveys of corruption in specific sectors have received assistance from, bilateral donors especially in the extraction of mining resources (Goredema, 2011).

South Africa

South Africa enacted the Promotion of Access to Information Act (PALA) in 2000 at the local level in a view to promote transparency and reduce corruption in the governance of natural resource at the local level. In addition, at the global level, it adopted the Open Government Partnership (OGP) shunning away from the Extractive Industries Transparency initiative (EITI). The OGP, a multilateral transparency initiative, was launched on 20 September 2011 and South Africa was one of its founding members and African presence in the OGP is minimal. The OGP's objective is to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption and harness new technologies to strengthen governance¹⁶.

In addition, South Africa also established the National Anti-Corruption Forum (NACF) in 2001 to prevent corruption, build integrity and raise awareness.¹⁷ The NACF is comprised of three arms namely the government, the business and the civil society. With its legal arm Business Against Crime South Africa (BAC), major initiatives against fraud and corruption were launched including combating the theft of gold and other precious metals, in conjunction with the South African Police.

In terms of Money-Laundering, South Africa established the Financial Intelligence Centre under the FIC Act No. 38 of 2001 in February 2002. The Financial Intelligence Centre Act states that any person who fails, within the prescribed period, to report to the Centre the prescribed information in respect of a suspicious or unusual is guilty of an offence. The centre started receiving reports on suspicious and unusual transactions on 3 February 2003. The FIC Act also sets up a regulatory anti-money laundering regime which is intended to break the cycle used by organized criminal groups to benefit from illegitimate profits.¹⁸

16 OGP (Open Government Partnership), 'About', <http://www.opengovpartnership.org/about>.

17 About NACF, <http://www.nacf.org.za/>

18 About FIC, <https://www.fic.gov.za/SiteContent/ContentPage.aspx?id=1>

The aforementioned legal and institutional framework is also complemented by sector specific acts, which govern the exploitation of resources and provide export guidelines for investors. These include; the Wildlife Conservation and National Parks Act of 1992 in Botswana, the Zambian Wildlife Act of 1998 in Zambia, the Wildlife Conservation Act (No. 5 of 2009), Tanzania and National Environmental Management: Biodiversity Act, 2004, in South Africa. These pieces of legislation generally provide for the conservation and utilisation of wildlife and it also regulates the possession and trade with controlled wildlife products.

There is also the SADC Protocol on Wildlife Conservation and Law Enforcement (1999) and the SADC Protocol on Fisheries, which seeks to regulate the sustainable use of both wildlife and fisheries. Signatories to the protocols have to harmonise and align their laws and policies in line with promoting the objectives of the Protocols, which also seek to deal with the illegal trade in wildlife and fisheries.

With regards to timber, the major challenge is illegal logging rather than illegal trade; hence the focus in the region is mainly on management and conservation of forests. SADC countries have forest laws, regulations and policies governing the management of forest resources. For example, Mozambique has the Forestry and Wildlife Act of 1999 as well as regulations related to this act. Whilst in Malawi there is the Forest Act of 1997 and South Africa has the National Forest Act (Number 84 of 1998). These Acts mainly provide special measures for dealing and the protection of certain forests and trees; promote the sustainable use of forests for environmental, economic, educational; recreational, cultural, health and spiritual purposes; promote community forestry, and promote greater participation in all aspects of forestry and the forest products industry by persons disadvantaged by unfair discrimination.

Furthermore, in the mining sector, processes are underway in Tanzania and Botswana to implement the Extractive Industries Transparency Initiative (EITI) to curb the illegal outflows of revenues and mineral ores from the Mining sectors. Similarly, South Africa,

adopted the Open Government Partnership (OGP), a multilateral transparency initiative, launched in September 2011. The OGP's objective is to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption and harness new technologies to strengthen governance, including in the mining sector.

However, the effectiveness of these legal and institutional frameworks in dealing with IFFs remain constrained due to a lack of political will, coupled with political interference in the operations of the institutions established to deal with IFFs, given that politicians may be involved directly or in collaboration with unscrupulous business people to illegally exploit and transfer resources across borders. Furthermore, limited human capacities, low morale, limited budgetary funding, among others, were identified as some key factors affecting the operational effectiveness of the various government institutions set up to fight IFFs.

3.3 Possible Legal and Institutional Reforms to Curtail IFFs

3.3.1 Mining

There is need to finalise the Mines and Minerals Amendment Bill of 2010 which makes some improvements on the Mines and Minerals Act [Chapter 21: 05]. However, the Bill should be reviewed to strengthen mechanisms for good governance by creating broad intra and extra governmental checks in decision making to ensure objective and transparent exploitation of mineral resources that maximizes societal benefits. Discretionary power can be limited by introducing a standard model contract or enshrining in the law the operational and financial details of the extractive sector that promote national interest. This eliminates room for individual negotiation between Government officials and potential miners and helps the Government where its capacity to negotiate is limited. The Bill should enhance the provision for companies to submit geological data and corporate projections which are important in enhancing capacity to estimate the value of resources available.

Addressing current constraints of transparency, accountability, and competitive acquisition of mining licences would help deal with the problem of IFFs. Further, disclosure of information on revenue flows and other benefits obtained from mining, in line with the EITI, principles, procedures, standards and rules, is also of paramount importance in the fight against IFFs from mining.

The above could be achieved through reviving the Zimbabwe Mining Revenue Transparency Initiative which was established in September 2011 with a view of ensuring that Zimbabwe attains the EITI compliance by 2015. Its objectives were to combat tax evasion and to ensure transparency in the use of mining revenue. It is imperative that the government should revive the initiative and institutionalise it through coordination between the Ministry of Finance and Economic Development and the Ministry of Mines and Mining Development. The initiative requires extractive companies to publish their payments to governments and also governments to publish what they receive in revenue from companies and an independent audit to reconcile these reports and identify the discrepancies.

Decriminalising of the operations of small-scale miners, announced in the 2014 National Budget Statement increases the capture revenue that used to be lost through smuggling thereby reducing the incidence of IFFs. However, there is need for the government to invest more in capacity building and knowledge sharing programmes to capacitate small-scale miners. These capacity building programmes can be delivered through targeted short-term training courses, by the Zimbabwe School of Mines.

Furthermore, the Zimbabwean tax regime needs to be reformed to simplify it by streamlining its multiple components, to balance State revenue collections and encouraging investment in new exploration and mining, as well as to take into account small-scale traders. The Zimbabwean tax regime is fairly complex in comparison with other states in the region.

Standard as of January 2011	Varied for Special Mining Leases (SML)
<ul style="list-style-type: none"> • Ad Valorem royalty <ul style="list-style-type: none"> - Diamonds 15% - Platinum 10% - Precious stones 10% - Gold 7% - Other precious stones 4% - Base metals and industrial minerals 2% - Coal 1% - Discretionary exemption • Corporate income Tax (CIT) <ul style="list-style-type: none"> - 25% flat - Special initial allowance (100% write-off of capex) - Deductions for royalty, interest - Exposure of exploration, stripping, shaft sinking - Unlimited loss carry forward - CSR payments not recognized - Mine closure provisions not recognized - Mine by mine ring fence (except for exploration) - Presumptive tax 2% on gold sales of ASM • Withholding <ul style="list-style-type: none"> - Dividends 20% (non- resident) - Interest 10% (non-resident) • VAT <ul style="list-style-type: none"> - 15 % input VAT payable but qualifies for deferment zero rating for exports • Duties <ul style="list-style-type: none"> - Variable rates; for certain items duty exemption replaced rebate system 2011 - Export duty on Semi processed chrome ore of 20% • Other fees and levies <ul style="list-style-type: none"> - MMCZ levy of 0.875% of mineral sales other than gold - Area retention fees , Environmental ; levies 	<ul style="list-style-type: none"> • Contractual stabilization • Corporate Income Tax (CIT) <ul style="list-style-type: none"> - Rate of 15% - Exploration expensed , development depreciates 25% per year - Full ring fence • Additional profit tax <ul style="list-style-type: none"> - Negotiable – only 2 SMLs - 2 tier 15% and 20% rate of return - Rates vary with CIT rate at current CIT rate first tier APT rate is 41.5% • Full duty exemption for 5 years <p style="margin-left: 20px;"><i>Note: The mining tax regime would apply to the holder of a mining interest by virtue of the indigenization law</i></p>

Adapted from Jordan et al, 2012

The normal corporate tax is 25 percent, but there are numerous other direct and indirect taxes as well as fees and levies. Several tax instruments apply only to minerals, such as royalties and marketing fees. The current mineral tax system is complex, which remains a haven for tax evasion and other illegal leakages of revenues. In addition, mining royalties have been increased several times in recent years and are now the highest in the region (Deloitte, 2012). The current tax regime is sub-optimal because it fails to balance maximising State revenues while encouraging investment in new exploration and mining. It tends to add to costs (high royalties, fees, levies) thereby promoting illegal resource exploration which leads to illicit financial flows.

In order to recover and deter IFFs from corruption or criminal activities in the extractive sector, the Government can consider enacting a law of non-conviction seizure. Seizure of assets can be in two ways, the actual proceeds of crime based on a criminal conviction, which is a standard instrument of criminal law but depends on the establishment of a clear and proven link between criminal acts and specific proceeds and non-conviction based seizure. Non-conviction seizure allows prosecutors to file a civil law suit for the sequestering or confiscation of assets based on 'reasonable suspicion' rather than proof of criminal activity. Non-conviction based seizure procedures often allow a partial reversal of the burden of proof whereby the subject of the suit must prove the legal origin of assets or forfeit them. The latter can be more applicable to Zimbabwe. However, it needs more commitment from government ministries and well-functioning civil society organisations.

3.3.2 Wildlife and Fisheries

The country's legal and institutional strategies put in place to curb incidence of the illicit flows from the illegal trade in wildlife and fisheries have some inherent weaknesses in them. There is need to

reform and restructure them to effectively curb the illegal practices that are costing the country in terms of both revenue and wildlife resources. According to (Wasser et al, 2008) the key strategy for containing illegal trade in wildlife is to identify weaknesses in the wildlife law enforcement and anti-poaching effort. Therefore, focusing and concentrating reform efforts on these areas will potentially deter poaching and illegal trades in wildlife before it enters the complex web of international criminal activity where enforcement is difficult to implement. This approach will stop the trade before the wildlife is actually killed.

Zimbabwe's wildlife laws are not harmonized with neighbouring countries laws thereby creating loopholes for illegal hunters to manipulate. Consequently, this has encouraged cross border poachers from Zambia, Mozambique and South Africa to operate across the border in Zimbabwe where, if caught, they receive lighter sentences than in their home countries. There is need, therefore, to align existing wildlife laws such that there are uniform with those in the region and become, more effective in deterring illegal hunting. The National Parks and Wildlife Management Authority (NPWM) also needs restructuring to reflect the changing operational environment; functions; the demands for more accountability and strengthening of transparency. This will inevitably lead to devolution of authority within the organisation and strengthening the organisation's mandate in protecting wildlife and curbing mismanagement of the country's prime natural resources.

There is a need also for refinement of existing wildlife laws so that penalties imposed reflect the true value of the resource being destroyed; wildlife offences are usually granted lower priority than those involving livestock. For instance convicted stock thieves are granted more years of imprisonment for theft whilst a poacher

convicted of killing a wild animal is handed a nominal sentence. In 2011 a cattle rustler was sentenced to 189 years in jail in Zimbabwe after being charged with 22 counts of stock theft in line with the Stock Theft Act (Chapter 9:18) which imposes a mandatory sentence of 9 years per beast for stock theft and this has resulted in a drastic reduction in cases of stock theft in Zimbabwe. In 2013 five poachers who were convicted of killing ten elephants were sentenced to 14 years each despite the existence of stiffer penalties imposed by the amendment of section 128 of the Parks and Wildlife Act Chapter 20:14 through the Parks and Wildlife General Laws Amendment No. 5 of 2011 and Statutory Instrument 56 of 2012 (Parks and Wildlife).

The amendment stipulates that any person who is convicted for unlawful killing of a rhinoceros or elephant is expected to be sentenced to nine years for a first offender or eleven years for a second or subsequent offender whilst Statutory Instrument 56 of 2012 requires that in the event of a successful trial and conviction of the accused poacher, he/she would be required to pay a compensation of US\$50,000 to the state. The Parks and Wild Life Management Act should also be reformed to address, in an effective manner, all aspects of illegal, unreported and unregulated fishing in Zimbabwe. The Parks and Wildlife Authority should undertake comprehensive monitoring and control of fishing from its commencement, through the point of landing, to final destination.

The penal system in Zimbabwe allows magistrates to impose a maximum sentence but does not allow for a minimum penalty, the effect being that the magistrates have the discretion to impose a sentence based on their personal attitudes. There is need for refinement of existing wildlife laws to a more rule based system, so that there is greater uniformity. Magistrates do not have to

use personal discretion in sentencing people convicted of wildlife offences such that the sentences are predictable and would be offenders would be deterred from committing wildlife offences.

Due to the abuse of the CAMPFIRE programme in Zimbabwe, the communities have been failing to access as well as benefit from funds they are supposed to get from the safari hunting concession. The situation deteriorated with poaching activities becoming rampant as the communities are being alienated. There is, therefore, need to reform the management, structure and flow of benefits of the CAMPFIRE programs in the communities adjacent national parks so that they become more inclusive, with the communities reaping benefits from wildlife management at same time inducing anti-poaching efforts.

3.3.3 Timber

Whilst it is noted that there are low levels of IFFs from timber, the sector suffers mainly from illegal timber harvesting and trading for domestic usages. Hence, reforms to the legal and institutional frameworks should focus on addressing illegal logging and trade of timber. While the legal frameworks that provide guidance in management and exploitation of timber exist, the implementation and enforcement is still a challenge. The fragmented pieces of legislation and the multiple institutions responsible for management of forestry resources creates loopholes that are exploited by illegal timber traders. The multiplicity of institutions regulating the exploitation of forestry resources creates overlaps and conflicts of mandates that undermine institutional accountability. Curbing of IFFs from timber requires effective institutional co-ordination, comprehensive data base of forestry resources, enforcement of legislation, incentive compatible penalties for offenders and information exchange on all facets of development and management of forestry resources.

Anecdotal evidence seems to suggest that forestry management needs to be revamped through adequate provision of forestry development and resolution of ownership disputes that were occasioned by the land reform programme. Resettlement in forestry reserves have in some instance led to clearing of large tracks of forests for agricultural purposes. This development also created conducive conditions for illegal logging and sale of timber especially where ownership of forest was blurred. Addressing the issues of security of tenure in the forest reserves will enhance accountability and incentives to protect forest resources as communities adopt sustainable methods of exploitation of timber and other forest resources.

The other challenge is of lack of updated inventory on the status of forests and data on the illegal logging in Zimbabwe. Underfunding of the Forest Commission has reduced its capacity to carry out the inventories and effectively monitor the exploitation of hardwood forests. Such institutional incapacities create a conducive environment for illegal logging and trade in timber products.

4.0 CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

The study made an attempt to estimate the levels of IFFs from Zimbabwe's mining, fishery, timber and wildlife sector, over the period from 2009 to 2013, to assess the possible drivers of IFFs and the existing legal and institutional frameworks designed to curb IFFs. While the study focused on the period from 2009 to 2013 where data was available the study also provided rich background material on the legal and institutional frameworks governing the development and exploitation of natural resources in Zimbabwe. The study also compared national strategies within the Southern Africa region to combat illegal exploitation and trade of the resources from the aforementioned sectors, with a view to draw important lessons for Zimbabwe.

Based on partner-country trade data, covering the aforementioned sectors, from UNCOMTRADE and CITES, the study estimated that between 2009 and 2013, Zimbabwe lost US\$2.83 billion, through illicit flows, translating to an annual average of US\$570.75million. Of the cumulative outflows, 97.88% (US\$2.793 billion) were in the mining sector. IFFs in wildlife accounted for 0, 53% at US\$15.07 million, whilst fisheries and timber accounted for 0.98% and 0.61% at US\$28.04 million and US\$17.30million, respectively. The most immediate impact of IFFs is a loss of revenue, hence, a reduction in domestic expenditure and investment, both public and private. Hence, this revenue outflows could have been used for productive investments, in support of the economic growth objective of the government. Curbing the IFF from Zimbabwe could help create additional fiscal space for critical growth enhancing investments.

These IFFs were mainly underpinned by a number of factors, chief among them being the gaps in the legal and institutional framework that promotes corruption and other forms of illegal flows of money out of the country. Other key drivers of IFFs in wildlife and fisheries included, demand and supply mismatch, price mismatch/ controls, tax and exchange control evasions. Regarding the mining sector, IFFs are mainly a result of corruption, dysfunctional regulation, weak enforcement of rules, tax evasion, tax avoidance, smuggling lack of transparency and accountability in the collection and management of natural resource revenues. Furthermore, limited information asymmetry with regards to geological quantity and quality of minerals create room for rent seeking behaviour and under-declaring of quantity and quality of minerals, thus aiding the illicit flows of money from the country. With regards, to timber, the level of IFFs is low and is not a major cause of concern. However, the major challenge with the timber sector is the rampant illegal logging of trees for domestic consumption.

A review of national strategies to combat IFFs in the Southern Africa region show that a number of countries have instituted varied legal and institutional arrangements. For example, countries have enacted Anti-corruption Acts, Anti-Money Laundering Acts, and the attendant institutional frameworks. However, their effectiveness in dealing with IFFs is constrained by capacity challenges and sometimes political interference in the operations of the institutions established to deal with IFFs. Limited human capacities, low morale, limited budgetary allocations, among others, were identified as some key factors affecting the operational effectiveness of the various government institutions set up to fight IFFs.

4.2 Recommendations and Policy Options

The problem of IFFs is a global phenomenon and one that requires joint effort at global level. Curtailing IFFs requires concerted efforts by both developed and developing countries. This, therefore, requires greater emphasis on international cooperation by individual nations on measures aimed at regulating secrecy jurisdictions, strengthening anti-money laundering efforts, enhancing tracking of financial crimes, corruption and enhancing the capacity of the UN Committee of Experts on International Cooperation in Tax Matters, among others. This should be coupled with initiatives to support transparency in international financial transactions, through the full implementation of such initiatives as UN Resolution 55/188 on the illegal transfer of assets, as well as the Stolen Asset Recovery Initiative.

The arguments for a global approach to IFFs is further strengthened by the fact that only a collective approach to reform the global financial system, can achieve reforms that work for developing countries as well. These measures include dealing with cases of excessive financial secrecy that allows tax evasion, money laundering, terrorist financing or other criminal activities. This is because many rich nations benefit from financial secrecy or tax avoidance at the expense of a poor country. For instance, a multinational company headquartered in a developed country, can engage in transfer pricing to shift its profits out of a developing country, or foreign companies can use offshore accounts to evade exchange control requirements.

In this regard, reforms in the international financial architecture, requiring greater transparency in the banking system could be a giant step towards addressing the problem of IFFs. If banks were

obliged to ascertain the identity, source of wealth, and country of origin of their customers and their deposits, this could enhance greater transparency, to the detriment of tax havens, which thrive in secrecy. Further, such mechanism will not only discourage IFFs but will also help in the repatriation of stolen assets, as well as enforce compliance with tax laws of respective countries.

Furthermore, global initiative to deal with IFFs needs the full endorsement of developing nations who are often at the receiving end of IFFs. These global measures under the Worldwide Counter-Ilicit Financial Flows Initiatives include: Automatic Exchange of Tax Information, Beneficial Ownership,¹⁹ Country-by-Country Reporting²⁰ as well as measures to fight tax avoidance/evasion, transfer pricing, and profit shifting schemes.

At country level, countering IFFs would require strengthening of the legal and institutional frameworks that are fit for purpose; credible; enforceable and adaptable to the dynamic and complex illicit activities that facilitate IFFs. Weaknesses in the tax legislation need to be addressed to curtail tax avoidance and evasion schemes by multinational corporations. This should include enacting specific transfer pricing guidelines and reforming/reinforcing the Income Tax legislation to respond to organised crimes and tax avoidance/evasion schemes. Penalties for offenders should be deterrent and incentive

19 Anonymous shell companies—corporations or other legal entities with no physical assets and hidden owners (often operating through a web of other companies)—have recently gained attention as a method of conducting shady transactions and evading taxes. While some companies implicated in such activities are incorporated in reticent tax haven jurisdictions, many are located in developed countries with putatively strong criminal enforcement regimes. Policy proposals directed at this issue generally revolve around requiring such companies to disclose their “beneficial owners” to government officials, (GFI – Worldwide IFF Initiative 2013).

20 Country-by-country reporting targets the ambiguity of multinational corporations’ books, which often fail to effectively represent where assets are located and profits earned, instead shifting income through tax havens and transfer pricing gimmicks. Country-by-country reporting would require such companies to report income and other financial indicators for each country in which they operate, enabling tax authorities and the public to hold them accountable. This concept initially targeted the extractive industries (oil, gas, and mining), but current proposals would extend it to all multinational corporation, (GFI – Worldwide IFF Initiative 2013).

compatible. Institutions created to deal with economic crimes, such as the Anti-Corruption Commission and the Anti-Money Laundering Unit, must be given enough degrees of freedom and autonomy to operate without undue political interference. Equally important is the need to ensure that the institutions are adequately financially resourced and are staffed with well-motivated and technically competent personnel to investigate and deal with complex issues of IFFs.

In mining, the major driver of IFFs is the apparent limited knowledge of the geology and mineralisation of the country by the Government. The situation where Government has limited knowledge of the quantity and quality of minerals within the country undermines its contract negotiating power with potential investors who may have more information. Such information asymmetry leads to tax avoidance through bad contract negotiation, and illegal exploitation of minerals. In this regard, there is need for the Government to invest in geological surveys and mineral exploration to determine the quantities and qualities of the vast mineral wealth the country is endowed with.

There is also need to reform the Mines and Minerals Act, to eliminate discretionary decision making powers and the practice of case-by-case negotiation of royalties and tax concessions for special mining leases, which creates room for corruption. Discretionary powers need to be limited and adopt transparent and rule based approaches. This can be achieved through the introduction of standard model contract or enshrining in the law the publication of operational and financial details/contracts of the extractive sector investors to ensure that national interest are promoted and protected. This eliminates the temptation for underhand dealings by public officials entrusted with contract negotiation between with potential miners/investors. Government needs to adopt transparent

contract negotiation and mining regimes that create linkages within the economy and maximize societal benefits.

Furthermore, addressing current constraints of transparency, accountability, and competitive acquisition of mining licences would help deal with the problem of IFFs. Disclosure of information on revenue flows and other benefits obtained from mining, in line with the Extractive Industries Transparency Initiative (EITI), principles, procedures, standards and rules, is also of paramount importance in the fight against IFFs from mining. This could be achieved through reviving the Zimbabwe Mining Revenue Transparency Initiative. Furthermore, the Zimbabwean tax regime needs to be reformed to simplify it by streamlining its multiple components, to balance revenue collections objective and encouraging investment in new exploration and mining, while taking cognisance of the needs small-scale miners.

There is need harmonize Zimbabwe's Parks and Wild Life Act (Chapter 20:14) with those of the neighbouring countries, to eliminate loopholes for illegal hunting and trade of wildlife products. There is also need for refinement of existing wildlife laws so that penalties imposed reflect the true value of the resource being destroyed. Wildlife offences should attract stiffer and rule based penalties that can deter the illicit trade in the sector.

The existing framework (the Forest Act Chapter 19:05 of 1948 and the Communal Lands Forest Produce Act of 1927) aimed at addressing illegal logging in Zimbabwe, which is a source of IFFs, tends to focus on low level criminal activity, ignoring the more sophisticated syndicates which may include companies and unscrupulous business people. This requires all the law enforcement agencies to be proactive in the investigation and prosecution of illegal logging and trade of timber. Even if the Forestry Commission

does not have cases of illegal logging, the fact that the level of forestry depletion is occurring at an alarming rate call for the institution to undertake comprehensive baseline forestry inventory and enhance its monitoring the exploitation of the forest particularly the high value hardwoods.

4.3 Areas of Further Study

This study which was exploratory has uncovered areas that need more robust data and more analytical work which could focus on quantifying economy-wide IFFs. Such an exercise would cover all the sectors of the economy as well as the role of the financial sector and the Information Communication and Technology (ICT) revolution in aiding IFFs and how this can be resolved. The other area of focus could be on the coordinating mechanism for the fragmented legal and institutional frameworks for curbing IFFs in Zimbabwe.

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