



## **AFRICAN UNION POLICY DIALOGUE ON THE TAXATION OF THE DIGITAL ECONOMY**

**Date: 12 March 2020**

**Venue: ICC Conference Centre**

**Time: 9:00am- 1:30pm**

**Accra, Ghana**

### **CONCEPT NOTE**

#### **1. INTRODUCTION**

The African Union Commission (AUC), in collaboration with the African Tax Administration Forum (ATAF) is organising a Tax Policy Dialogue on the Taxation of the Digital Economy on 12 March 2020 in Accra, Ghana. The Policy Dialogue is being held on the backdrop of the new proposals by the Organization for Economic Cooperation and Development (OECD) Inclusive Framework to develop a global consensus-based solution to the tax challenges arising out of the digitalisation of the economy. The economic impact of the proposals for African economies is still unclear, and the Tax Policy Dialogue aims to deliberate on the possible impact on African tax revenues and investment as a result of the proposed changes to the global tax rules relating to the allocation of taxing rights and stemming artificial profit shifting by some multinational enterprises which are being exacerbated by digitalization of the economy.

The Third International Conference on Financing for Development (FFD3), held in July 2015 in Addis Ababa, Ethiopia, concluded with the adoption of the Addis Ababa Action Agenda (AAAA) and the launch of various partnerships, including the Addis Tax Initiative, to help support and strengthen domestic tax systems. The AAAA was adopted following a compromise on issues related to international tax matters. In this regard, a proposed solution to the global tax challenges arising out of the digitalisation of the economy being discussed through dialogue and compromise at a global level will directly impact this agenda. It is therefore crucial that Africa voices its stand.

#### **2. BACKGROUND**

Recently, many African countries have reported concerns about the tax challenges they face, as their economies become increasingly digitalised. Digitalisation enables multinational enterprises (MNEs) to carry out business in African countries, with no or very limited physical presence. This makes it difficult for African countries to establish taxing rights over the profits the MNE is making from the business activities it carried out. This is due to the current international tax rules only allocating taxing rights to a country where a non-resident enterprise creates sufficient physical presence in that

country, i.e. creating a “nexus” in that country. Business models that enable an MNE to carry out business in an African country with no or very limited physical presence in that country, therefore, represent a significant risk to the tax base of African countries

### **3. CURRENT TAX LANDSCAPE AND CHALLENGES POSED BY THE DIGITAL ECONOMY**

Digitalisation raises the question of how taxing rights on income generated from cross border transactions should be allocated between jurisdictions. However, digitalisation of the economy raises a number of tax challenges relating to the broader economy as digitalisation is increasingly impacting on the value chains of a wide range of businesses. These changes to value chains are therefore raising questions as to whether fundamental changes are needed to the two key underlying principles of the international tax rules. These are the nexus mentioned above rules and the profit allocation rules (which determine how the MNE’s global profits are allocated between jurisdictions, primarily using transfer pricing rules).

The allocation of taxing rights between residence and source jurisdictions has been an issue of considerable concern for African countries for many years. ATAF members often report that they consider the current nexus and profits allocation rules to be in favour of the residence jurisdiction, to the detriment of the source (African) jurisdiction.

African countries are also concerned that their tax bases are being eroded by Illicit Financial Flows, due to MNEs artificially shifting profits to jurisdictions where the profits are subject to little or no tax. They consider that the outcomes of the OECD/G20 BEPS project do not adequately stem these Illicit Flows in Africa. This is due to a number of factors including weak domestic tax legislation, limited exchange of information mechanisms and the complexity to administer effectively.

The challenges include:

- a) Determining the appropriate allocation of taxing rights between residence and source jurisdictions;
- b) Determining the monetary effect of Tax Treaties which may have a harmful impact on Domestic Revenue Mobilisation;
- c) Develop rules to effectively tackle artificial profit shifting and which meet the specific challenges in Africa;
- d) Finding an appropriate balance between simplification conventions and accuracy in the new rules;
- e) Obtaining the necessary data to assess the impact of new global tax rules on tax revenues and investment in Africa;
- f) Assessing the impact of new global tax rules on the granting of tax incentives in Africa.
- g) The lack of tax policy harmonisation and the challenge of tax competition amongst States, having a deprivatory effect on economic development;
- h) Evaluating how countries can stem the growth of Illicit Financial Flows;
- i) The virtual of data privacy regulatory frameworks for the protection of Africa-specific data, impacting on the privacy rights of citizens;
- j) Determining how crypto-currency can be brought into the ‘main economy’ through legislative regulation that ensures both the protection of citizens and tax bases of revenue authorities.

#### **4. TAX POLICY DIALOGUE**

The purpose of this Dialogue is to bring together key stakeholders of both, the African Ministries of Finance and Tax Administrations, to discuss coordinated tax policy and tax administration decisions and actions relevant to the salient debate. This will inform the debate on the development of an African position on the fast-changing global tax environment. Through a consultative process and dialogue, the event will outline priority tax issues in Africa for regional and global collaboration. The dialogue will bring together African policy makers, to discuss the key issues to be addressed, in relation to the ongoing OECD Inclusive Framework led process on developing new global tax rules to address the tax challenges from the digitalisation of the economy.

The dialogue will bring to the fore, the objectives and impact of key policies to be included in the OECD Inclusive Framework discussion. The outcome document of the Dialogue will feed into the discussions of the experts and the Ministers at the next sitting in the context of 2020 Specialized Technical Committee (STC) on Finance, Monetary Affairs, Economic Planning and Integration, to be held from 9 to 14 March 2020 in Accra, Ghana.

#### **5. TARGET AUDIENCE**

The Dialogue is aimed at senior officials of African Ministries of Finance (Ministers, Permanent Secretaries/Directors General), Tax Administrations (Commissioner-Generals/Deputy Commissioner-Generals) and Central Bank Governors. Senior representatives of International and Continental organisations will be invited to contribute to the understanding of the issues at hand; while the legislature and Civil Society will engage not only on legal reforms, but on the advocacy required to achieve the necessary awareness.

#### **6. STRUCTURE OF THE DIALOGUE**

The dialogue will be conducted through debates with key tax policy principals (Ministers of Finance and Permanent Secretaries), Revenue Administrations, Central Bank Governors and key African and international institutions. At each session, a specific area of taxation concerns for African countries will be presented, and a subsequent high-level dialogue will ensue. The meeting will give opportunities to various stakeholders to assess their advances in implementing international standards, while isolating unique African challenges and opportunities for inputting an African perspective, on the taxation of the digitalising economies, at a global level.

The discussions will centre on topics such as:

- What are the key tax challenges that African countries face from the digitalisation of their economies?
- How does Africa strike a balance between creating an effective regulatory framework, without stifling digital innovation?
- Is digitisation facilitating inclusion of the poor and vulnerable groups into the economy?
- What change is needed to the current global tax rules, to meet the challenges digitalisation poses in Africa?
- What are the current proposals for changes to the global tax rules, which will help African countries address those challenges?

- What is the view of Africa on current debates surrounding not only taxation of the digital economy but the questions data ownership and data privacy?
- How to forge an Africa response to the OECD Inclusive Framework proposals to be adopted in 2020?
- How can African countries prepare for the new global tax rules through changes in legislation, capacity building and improvement in tax administration systems?

## 7. EXPECTED OUTCOMES

- Increased awareness and understanding of the impact of digitalisation on the African economy;
- A deeper understanding of the tax challenges arising from the digitalisation of African economies;
- Further development of an African proposal, for revisions to the global tax rules to address those challenges;
- Enhance the collaboration between African Ministries of Finance and tax administrations, to build effective tax regimes for digitalised business in Africa;
- Some Proposals for an African Position on Taxing the Digital Economy that will feed into the Ministerial Meeting at the 2020 STC on Finance, Monetary Affairs, Economic Planning and Integration; and
- Increase collaboration between all stakeholders to improve tax advocacy work in Africa, with a primary focus on the tax challenges from digitalisation.

## 8. AGENDA

### 09h00 – 09h30 Opening Session

- ATAF – Opening Remarks
- AUC – Opening Remarks

### 09h30 – 11h00 Session I: Taxing rights and Digitalisation of the Economy: Implications for Africa

As the global discussion focusses on taxing the digitalised economy, an important aspect for African countries to consider is the allocation of taxing rights. This important aspect of the tax debate will ensure that African countries benefit more from multinational activities as well as realigning taxing rights with source taxation. This session will look at what benefits can be derived by African countries as well as how best to ensure this aspect is captured in the global debate.

- South Africa
- Kenya
- Senegal
- Cote d'Ivoire
- Egypt

### 11h00 – 11h30 Refreshment Break

### 11h30 – 13h00 Session II: Africa's Position on the taxation of the Digitalised Economy

Considering the advancement in the global debate on taxation of the digitalised economy, has Africa ensured a position that considers African economies and capacities? Therefore this session will look at the strategies Africa needs to put in place to

grasp the opportunities presented by digitalisation in order to improve tax systems and tax collections. The issues to be discussed include, amongst other things the preparedness of Africa, investment in human resources, unified political support to tax policies.

- Rwanda
- Morocco
- Uganda
- AUC – Commissioner of Economic Affairs
- NEPAD

**13h00 – 13h30**

**Closing Session**

Side Event Outcomes Statement

- ATAF - Closing Remarks
- AUC – Closing Remarks