

**Conference**

# **Tax & Good Governance 2015-2024**

**July 10-11, 2024**

**tax & good governance 2015-2024**



**In association with World Bank Group**

**and**

**United Nations Office on Drugs and Crime (UNODC)**

## Draft Annotated Agenda

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Since 2015, the Global Tax Policy Center (WU GTPC), at the Institute for Austrian and International Tax Law, WU Vienna University of Economics and Business in partnership with the World Bank and United Nations Office on Drugs and Crime (UNODC) has been working with African countries to address the relationship between taxation and good governance. The first stage of our work, the Tax and Good Governance (T&GG) project (2015 – 2018), identified the links between corruption, money laundering and tax crimes; highlighted the key features of good tax governance; emphasized the importance of a corruption-free and transparent tax system for economic development; and evaluated how law enforcement agencies, including tax authorities, could cooperate to counter corruption and bribery. The project focused on the practical challenges faced and solutions being developed amongst African countries.

At the close of the T&GG project, the 35 African countries that participated confirmed that the way in which corruption continued to undermine the strengthening of domestic resource mobilization (DRM) to finance sustainable development remained a priority issue. In addition, countries remained concerned about the different ways in which financial crimes interact with one another and the role of a whole-of-government approach.

This first stage provided the foundation for the second phase, the [Tax Transparency and Corruption \(TT&C\)](#) Project (2019 – 2023). The four year program focused on evaluating the interaction between tax transparency and corruption from the perspective of tax administrators, financial intelligence units (FIUs), policymakers, business, civil society and academics and involved three very closely related objectives:

1. Increasing the effectiveness of government actions to counter financial crimes through enhanced inter-agency cooperation.
2. Establishing a legal framework for cooperative compliance and the promotion of tax certainty through increased consultation with business.
3. Removing the barriers to exchange of information within and between countries and improving transparency in tax planning. This was to be achieved by engaging in efforts to enhance the collection and maintenance of accurate information, especially on beneficial ownership.

In consultation with FIUs and tax authorities from seven (7) focus countries (Kenya, Uganda, South Africa, Rwanda, Ghana, Nigeria and Zambia) five research focus areas were selected: inter-agency cooperation, cooperative compliance (CC), beneficial ownership (BO), client attorney privilege (CAP), and unexplained wealth orders (UWO). From the outset, the role of inter-agency cooperation, BO and UWO were identified as key tools in enabling authorities to consult and consolidate their efforts to identify suspects and reclaim the proceeds of crime emerged as spotlight issues. These five focus areas presented important opportunities to address tax

and other financial crimes and, by identifying the implementation challenges that countries have been facing through frequent meetings of the focus groups, the Project collected a catalogue of case studies documenting the experiences of tax authorities, FIUs and other law enforcement agencies.

Not only did this project establish informal south-south dialogue between various officials, these case studies were also documented in a series of best practice guidelines, manuals and overall research publications which may be used by countries as a guide to their own administrative reform and planning processes. One overarching theme that emerged throughout the project was the role of inter-agency cooperation in overseeing and effecting all tools designed to prevent, detect, and combat illicit financial flows. Indeed, cooperation continues to be an essential aspect of the overall TGG work.

The TT&C project also sought to evaluate the practical steps countries need to take to improve their efforts to strengthen DRM. Alongside improving tools to combat IFFs, the project identified the need to eliminate the remaining barriers to transparency and to establish trust between tax authorities and taxpayers. The CAP focus area facilitated dialogue on the challenges that legal professional privilege could raise for investigations or overall transparency reporting requirements when misused. The Cooperative Compliance focus area, on the other hand, established a framework for the exchange of transparency and disclosure on the part of the taxpayer for greater tax certainty. Overall, these areas of work confirmed the importance of cooperation between tax authorities and the private sector to facilitate a shared understanding of the obligations to be met and to create certainty. These are essential in developing more effective policies and solutions to attract foreign direct investment.

The third stage of the program, [Good Governance in a Digital and Open Trading Environment \(DOTE\) 2021-2024](#) focuses on how to address tax transparency and corruption using new technologies in an era of increased trade liberalization from the perspective of tax administrations, FIUs, trade and tax policymakers, businesses and CSOs. The project consists of three related objectives:

1. Using new technologies to transform the way that African countries combat IFFs.
2. Empowering African countries to develop regulatory frameworks that minimize the risk of increased IFFs in the free trade area by harmonizing regulation and administrative practices.
3. Increasing the effectiveness of civil society organizations (CSOs) in the new digital and open trade environment to curb IFFs.

All of these stages of the project continue to reflect the practical approach of the project which has been particularly valuable to the current discussion regarding the need for developing countries to increase financing for sustainable development and the broader Post-COVID environment by broadening their tax bases, targeting evasion and abusive practices and reducing the cost of IFFs. The

objective of this conference is to present the final findings and outcome of the project, whilst transitioning the project into African based institutions.

This draft annotated agenda briefly sets out the main issues that will be covered over the 2 days and provides suggested questions that will be used to guide the discussions and the speakers. A number of detailed background papers will be available which you can also access on our [cloud](#) (PW: Vienna2024). Please refer to our [website](#) for more details.

## **Draft Agenda for a Physical Meeting in Vienna<sup>1</sup>**

July 10-11, 2024

The working sessions will take place on the campus of WU (Vienna University of Economics and Business), Welthandelsplatz 1, 1020 Vienna, LC building, in **Ceremonial Hall 1, room LC.0.001**. ([directions](#))

### **WEDNESDAY, JULY 10, 2024 (DAY 1 - MORNING SESSION) 09.00-13.00 (ALL TIMES ARE IN CET VIENNA TIME)**

08.30 – 09.00 **Registration**

09.00 – 09.15 **Opening of the Conference**

Welcome address:

- Michael Lang, WU
- Jeffrey Owens, WU

09.15 – 09.30 **Opening remarks**

- Jean-Luc Lemahieu, UNODC
- Emilia Skrok, WB

### **PART 1: A REVIEW OF THE OUTCOMES AND IMPACT OF THE PROJECT 2015-2024**

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<sup>1</sup> \*Asterisk next to the name denotes speakers/panelists who have not yet confirmed participation.

09.30 – 10.15 **Session 1: Inter-Agency Cooperation**

Chair:

*Melissa Tullis, Division for Policy Analysis, UNODC*

Speaker:

- Yara Esquivel Soto, Senior Financial Sector Specialist, World Bank

Country experiences:

- Dianne Willman, Deputy Director, National Prosecuting Authority, South Africa
- Representative, Federal Inland Revenue Service, Nigeria\*

Documents:

- Taxing Crime: A Whole-of-Government Approach to Fighting Corruption, Money Laundering and Tax Crimes (WB/StAR and WU GTPC)
- Inter-agency Cooperation and Good Tax Governance in Africa, WU and University of Pretoria (2018)

**Open Discussion**

**Context for Discussion:**

Improved cooperation between various law enforcement agencies in tackling IFF is one of the best ways to counter IFF. The discussion in the focus group on inter-agency cooperation and broader debate in the public fora has reinforced the critical strategic role inter-agency cooperation plays in sharing crucial information, assisting in the investigation and prosecuting criminals. Inter-agency cooperation has been a critical overarching theme across all focus groups from beneficial ownership, unexplained wealth order and even technology. It is considered the “lowest hanging fruit” in terms of policy options available to countries in tackling corruption, and that makes it much more critical for countries that work with limited resources.

The focus group on inter-agency cooperation has been an opportunity to learn from the on-ground experience of law enforcement officials in African countries sharing the challenges they faced, solutions deployed and significant lessons for other countries. Based on the discussion, the focus group has been able to co-author jointly with the Stolen Asset Recovery initiative of the World Bank and

UNODC a book titled "Taxing Crime: A Whole-of-Government Approach to Fighting Corruption, Money Laundering and Tax Crimes". The book showcases some key recommendations, practical guidance, and country case studies to implement a "whole of government approach" to detect, investigate and prosecute the proceeds of IFF in improving the effectiveness of government actions. This session will seek to convey the key findings of the book as well as key good practices in making inter-agency cooperation effective and how countries have used the guidance provided in the publication.

10.15 – 10.45 **Coffee Break**

10.45 – 11.30 **Session 2: Unexplained Wealth Orders**

Chair:

*Jeffrey Owens, Director of WU Global Tax Policy Center*

Speaker:

- Jean-Pierre Brun, Senior Financial Sector Specialist, World Bank

Panelist:

- Rita Julien, WU/NYU, Visiting Assistant Professor of Tax Law

Country experiences:

- Erimon Maundu, Zimbabwe Revenue Authority
- Preeya Ragoonundun, Assistant Director, and Paul Keyton, Director, Integrity Reporting Services Agency, Mauritius

Documents:

- Joint publication World Bank/WU: Unexplained Wealth Orders: Toward a New Frontier in Asset Recovery (pub. 26.06.2023)

**Open Discussion**

**Context for Discussion:**

The Pandora leaks, Paradise papers, Panama papers and Luanda leaks, among others, reveal the sophisticated structures set up, spread across multiple jurisdictions, that can be used for laundering and concealing the proceeds of crime and corruption. The complexity of these arrangements mean that it can be extremely challenging and costly to investigate them, all the more so for capacity-constrained African countries which are often the most affected by such illicit flows. Against this background, it is not surprising that there is more interest in “unexplained wealth order” (UWO) regimes, which take some of the burden off of investigators and place it on persons with suspicious wealth to explain how they obtained property that appears to be in excess of their known lawfully obtained income.

Some African countries, such as Kenya, Mauritius, and Zimbabwe, have enacted “unexplained asset” or “unexplained wealth order” laws. Others, for example South Africa, are considering it. Other African countries have expressed interest in exploring this tool further. The WU GTPC team has been actively contributing to more research, guidance and debate on UWOs. Much insight can be gained from studying the different ways countries have designed such laws, and from comparisons with other similar and related tools, such as asset recovery regimes, illicit enrichment offences, investigations by tax authorities, obligatory assets declarations for public officials, and voluntary disclosure regimes. All of these approaches will help develop a better understanding of UWO, of their interactions with other commonly recommended tools, and of where UWOs fit in a broader strategy to combat corruption, financial and tax crimes and the recovery of assets.

The focus group on UWOs discussed key features of UWOs including:

- that they may provide for a lower standard of proof to obtain the order,
- that the burden of proof may shift to the respondent to demonstrate that the wealth was obtained legitimately, that civil recovery based on unexplained wealth is available or civil avenues may be availed of where the respondent failed to provide a satisfactory explanation
- the role of technology in facilitating the operation of UWO.

The joint World Bank/WU GTPC publication presents the outcomes from these discussions.

### 11.30 – 12.15 **Session 3: Client Attorney Privilege**

Chair:

*Jeffrey Owens, Director of WU Global Tax Policy Center*

Speaker:

- Nicola Bonucci, ex chief legal advisor OECD

#### Country experiences:

- Siddhesh Rao, WU
- Innocent Chinyere Ohagwa, Vice President, The Chartered Institute of Taxation, Nigeria

#### Documents:

- Misuse of Client-Attorney Privilege and its Implications for Tax and Financial Transparency (WU GTPC team, 2024)

### **Open Discussion**

#### **Context for Discussion:**

The guarantee that any form of correspondence between a client and their lawyer will remain confidential and that in no event can a lawyer be requested to testify, report or make available such information to third-parties or public authorities against the will of the client, is a cornerstone principle of the right to fair trial and a necessary component in a society governed by the Rule of Law. While this stands as an universal truth when it relates to the traditional attorney role of representing clients in the course of dispute resolution, it is less self-evident in instances where there is no clear distinction between a lawyer and a client (in-house lawyers), as well as when the activity performed does not require that the person exercising it is a lawyer at all (e.g. providing tax advice or assistance in acquiring an asset such as real property). Finally, there are instances of outright abuse of legal professional privilege where a lawyer has no bearing whatsoever to a given correspondence but is included in it to obtain confidentiality and making any documents involved as inadmissible evidence in legal proceedings.

At the same time, both AML and tax mobilization efforts rely greatly on information supplied by third-parties that are obliged to collect and share with the relevant authorities an ever increasing amounts of data. Nearly always at a certain point, a lawyer will be involved in the process of creating the documentation that contains the relevant data. If legal professional privilege is construed too broadly, this may frustrate investigations by FIU and tax administrations.

To avoid the misuse of CAP requires a good understanding of the underlying rules and the principles that underpin them. For example, in AML cases a difference can be drawn between instances where the legal professional is acting as an accomplice to the crime and instances where they are made aware of money laundering activity without active participation. In the first case, the right against self-incrimination will bar any obligation to report on the side of both the lawyer and the client (although legal professional privilege as such will not cover the correspondence). Only in the second instance – i.e. where the legal professional was made aware of the activity without actively taking part in it – an obligation



to report might exist as long as legal professional privilege does not apply because of the facts and circumstances of how the legal professional was made aware of the information and in what capacity they have acted. Controlling abuse of the privilege in the latter circumstances is notoriously difficult as often the facts and circumstances cannot be evaluated unless the claimed privilege (even if unduly claimed) is waived. In this context, the role of Bar Associations and effective judicial control are key.

12.15 – 13.15 **Lunch**

**WEDNESDAY, JULY 10, 2024 (DAY 1 - AFTERNOON SESSION)**  
**13.45-17.30 (ALL TIMES ARE IN CET VIENNA TIME)**

## **PART 2: IN-DEPTH DISCUSSIONS ON ON-GOING ISSUES**

13.15 – 15.00 **Session 4: Beneficial Ownership**

Chair:

*Emilia Skrok, WB / Emile van der Does de Willebois, WB\**

Issues for discussion:

- What steps do African countries need to take to comply with the revised FATF Recommendations 24 and 25?
- What role do registries of beneficial ownership play?
- What progress has been made in digitalization of these registries?
- How can tax administrations draw upon the information in other law enforcement agencies especially FIUs?
- What are the main recommendations in the guidelines?

Speaker:

- Joy Ndubai, WU/ATAF
- Xolisile Khanyile, FIC, South Africa\*

Country experiences:

- Joyce Mwangi, Chief Manager, Competent Authority Office, Intelligence, Strategic Operations Investigations & Enforcement, KRA\*
- Emil Meddy, Ghana FIC
- Olateju Somorin, Caleb University

#### Documents:

- Best Practices and Guidance for the Implementation of Standards on Beneficial Ownership: A Case Study Approach

### **Open Discussion**

#### **Context for Discussion:**

International beneficial ownership standards have been the subject of significant reform in the past three years. Although the amendments to Recommendations 24 and 25 filled in a number of previous gaps, the reform of legal frameworks is only the tip of the iceberg. Over the last four years, the BO focus group has focused on the main challenge, namely: the practical aspects of the implementation of BO frameworks. Persistent weaknesses identified amongst FATF grey-listed countries include: overall inadequate BO frameworks; a lack of effective involvement and contribution of financial institutions and Designated Non-Financial Businesses and Professionals (DNFBPs); the need to adopt a risk-based approach; and the need to improve the use of adequate sanctions. In addition, amongst a majority of African countries evaluated by the FATF as of 2022, a low level of effectiveness in practical implementation was found including in: public availability of information; understanding of ML/TF risks; mitigation measures to prevent misuse of legal vehicles; timely access by authorities to adequate and accurate information; and proportionality of sanctions.

These findings have been strongly reinforced by the discussions arising from the focus group on beneficial ownership which sought to investigate some of the gaps and further analyze them with officials from tax authorities, FIUs and other law enforcement agencies. Based on the concerns raised by these officials, and by way of the sharing of case studies by various authorities from various countries, the focus group has been able to develop key best practice recommendations and practical guidance now documented in the case studies on the Implementation of Beneficial Ownership Standards.

The BO focus group has been an opportunity to unpack the challenges, solutions and major lessons of countries in these and a number of other areas. As countries now embark upon the process of reform in order to take into account the amendments to Recommendation 24 and 25, it is a good time to reflect on how the work of this focus group and future research/dialogue could reflect on the emerging challenges that countries will face in their efforts to comply both in procedure and substance. In addition, this session will seek to establish the need for ongoing dialogue on regional cooperation on beneficial ownership across the African landscape as part of the broader effort to jointly combat IFFs and protect

the integrity of the future single market under the African Continental Free Trade Area (AfCFTA).

15.00 – 15.30 **Coffee Break**

15.30 – 17.30 **Session 5: AI and related technologies: Striking a balance between the opportunities offered to Law Enforcement Agencies and the protection of citizens' rights in a digital age**

Chair:

*Richard Stern, WU*

Issues for discussion:

- How can TAs and FIUs integrate tools such as AI among other technologies within their systems to combat IFFs while upholding ethical standards, their responsibilities to citizens' rights in a digital age and ensuring that technology-driven compliance processes are effective and secure?
- What are the reforms needed within African TAs and FIUs to effectively incorporate AI and other technological tools within their ecosystems?
- What are the challenges posed by AI and other emerging technologies in addressing IFFs? What tools and strategies can be used to overcome these challenges?
- What strategies can be implemented by TAs and FIUs for effective use, processing and management of data in adherence to data protection laws and ethical principles including non-discrimination, transparency and accountability?  
What are the legal concerns and ethical implications posed by AI and other emerging technologies to the tax and financial eco-system in African countries?
- What are the technological solutions that FIUs and TAs can explore for safe and secure data management and storage?
- How can tax administrations and FIUs train their officials to distinguish between trustworthy and untrustworthy AI? Would it be helpful to have a checklist to guide them?

#### Speakers:

- Anders Agerskov, WB\*
- Moses Kaggwa, Commissioner, Ministry of Finance, Planning and Economic Development, Uganda
- Rwanda Revenue Authority\*

#### Panelists:

- Joy Waruguru Ndubai, ATAF, Digital Transformation Lead, – IT Tax Administration System for Africa
- Oleksiy Feshchenko, ex-UNODC, current WEF/Global Coalition to Fight Financial Crime
- Rhodah Nyamongo, WU
- Norm Hodne, Director of the Microsoft ACTS (Advanced Cloud Transparency Services, formerly Anti-Corruption Transparency Services)\*
- Shakeel Kahn, Validate AI\*

#### Documents:

- Sam Sim, 'Artificial Intelligence and Taxation At the Dawn of Generative AI' Tax Notes International, Volume 112, December 18, 2023
- Jeffrey Owens and Bernd Schlenther, 'Developments in the use of technologies in African Tax Administrations'
- WU/VAI/Leiden Background Paper, 'AI Governance and Taxpayers' Rights in a Digital Age' (forthcoming)\*
- ATAF/WU Policy Brief (forthcoming)\*
- J. Owens, A. Piakarskaya, N. Costa, and R. Nyamongo, 'Generative AI: The Power Behind Large Language Models and Their Use in Tax Administration' *Tax Notes International*, Volume 112, November 27, 2023
- UN AI Advisory Body, 'Interim Report: Governing AI for Humanity' December 2023
- Shimeng Lan, 'The Change of Paradigm of Tax Transparency and Its Challenges to Taxpayers' Rights to Privacy and Personal Data Protection' in Jeffrey Owens and Robert Risse, *Tax Law and Digitalization: The New Frontier for Government and Business*, 2021
- Resolution on the need to undertake a Study on human and peoples' rights and artificial intelligence (AI), robotics and other new and emerging technologies in Africa - ACHPR/Res. 473 (EXT.OS/ XXXI) 2021
- Validate AI, 'Our position on tackling AI risks', July 2023

## Open Discussion

### Context for Discussion:

The emergence of technologies such as AI and the continued digitalization of businesses globally, has impacted law enforcement in Africa especially due to the proliferation of IFFs and tax crimes that are cyber-related. Technological advancement raises cybersecurity concerns which African countries are not immune to. The emergence of even more complex avenues for illicit financial flows and tax crimes (for example cyber-enabled fraud which poses money laundering risks) has necessitated the digital transformation of the functions of tax administrations (TAs) and financial intelligence units (FIUs). TAs and FIUs are integrating technologies within their systems to enable the efficient collection, storage, processing and management of data acquired from traditional sources and beyond with a view of enhancing their risk assessment processes.

Additionally, technology has become essential to many businesses and significantly increased the amount of data that TAs and FIUs must collect, process, manage and use in targeting and managing IFF-related risks. Law enforcement agencies (LEAs) can be regarded as data-rich governmental institutions thus rendering data governance in a digital world a pertinent issue for African governments that goes beyond having laws in place.

The use of technologies such as AI can be intrusive, raising data protection and privacy concerns and necessitating safeguards against the infringement of human rights in the digital age. The deployment of tools such as AI by LEAs has recently been at the forefront of global discussions due to the efficiency gains presented in functions including but not limited to risk assessment, compliance and audits, functions that are integral to monitoring and combatting IFFs and tax crimes. For some countries, these efficiency gains have been marred by the limitations of these technologies that may be attributed to the training data (as would be the case for large language models powering chatbots as well as AI tools dependent on algorithms). This therefore requires LEAs to balance their responsibility of monitoring and assessing risks of IFFs using technology with upholding related human rights in a digital age. Furthermore, LEAs in deploying these technologies and processing data must adhere to transparency and accountability standards which must be put in place.

17.30 – 17.40 **Completion of evaluation form of participants**

17.40 – 17.55 **Group photo**

18:30 – 21:00 **Social Event – Dinner at a traditional Viennese restaurant**  
Pick up of transfer in front of Bassena Hotel

**THURSDAY, JULY 11, 2024 (DAY 2 – MORNING SESSION)**  
**09.00-12.00 (ALL TIMES ARE IN CET VIENNA TIME)**

09.00 – 12.00 **Session 6: Applying technologies in specific areas**

Chair:  
*Richard Stern, WU*

09.10 – 10.50 (A) *AI and predictive analytics: exploring the potential of generative AI in managing risks*

Speakers:  
– Zambia Tax Administration\*  
– Christian Weinzinger, Austrian Tax Administration\*  
– Rhodah Nyamongo, WU

**Open Discussion**

10.00 – 10.30 (B) *Using AI to improve service to citizens*

Speakers:  
– Mathew Osanekwu, Deputy Director (Tax), Federal Inland Revenue Service of Nigeria\*  
– Shakeel Khan, Validate AI\*

**Open Discussion**

10.30 – 11.00 **Coffee Break**

11.00 – 12.00 (C) *Developing a Digital Roadmap for tax administrations and FIU*

Speakers:  
– Richard Stern, WU  
– ATAF\*

**Open Discussion**

12.00 – 13.00 **Lunch**

**THURSDAY, JULY 11, 2024 (DAY 2 – AFTERNOON SESSION)**  
**13.30-17.00 (ALL TIMES ARE IN CET VIENNA TIME)**

13.00 – 15.30 **Session 7: The African Continental Free Trade Area (AfCFTA): The Role of Increased Cooperation and Coordination between Tax and Customs Authorities and Law Enforcement Agencies**

Chair:

*Jeffrey Owens, Director of WU Global Tax Policy Center*

Issues for discussion:

- What role do the revenue authorities and law enforcement agencies play in trade facilitation?
- How can revenue authorities and law enforcement agencies ensure the achievement of the four pillars of trade facilitation?
- What role does cooperation play in minimizing the potential trade related IFFs risks opened up by the Agreement?
- How can countries enhance cooperation efforts among tax and customs authorities and law enforcement agencies as they implement the agreement?
- What opportunities are presented by technology to streamline processes for agencies, remove duplications, and increase cooperation and coordination?
- How have whole of government approaches such as single-windows platform initiatives been adapted to the African context? Which agencies have been involved in successful implementation of these initiatives?
- What other coordination and cooperation initiatives have been adopted at the REC level?
- How are coordinated interagency inspections translated into a regional context?

Speakers:

- Gyang Demitta Chinwude, Senior Advisor to the Secretary General, Director - Customs Cooperation, Trade Facilitation and Transit; AfCFTA Secretariat\*

- Ruth Maina, WU
- ATAF\*

**Panelists:**

- Jane Ombui, Chief Manager, Bonds Management, Trade Facilitation, Customs & Border Control, KRA\*
- Ghana Revenue Authority\*
- Bernd Schlenther, WCO
- Richard Bolwijn, UNCTAD
- Habiba Ben Barka, Division for Africa, Least Developed Countries and Special Programmes, UNCTAD

**Documents:**

- Understanding the overlaps between trade and investment obligations and tax measures – setting foundation for dialogue on the AfCFTA (ATAF, 2023)
- Trade related illicit financial flows in Africa – risks and opportunities of the African Continental Free Trade Agreement (AfCFTA)
- The Tariff Revenue Implications of the AfCFTA (ATAF/WU GTPC, April 2023)
- The treatment of tax incentives under pillar two (by WU GTPC team, July 2022)
- Challenges at the intersection between investment provisions in regional trade agreements and implementation of the GloBE Rules under Pillar Two (Transnational Corporations Journal Vol 30 (2023))
- Policy Paper: The Future for Tax and Customs in the context of the African Continental Free Trade Agreement (AfCFTA) (ATAF/WU GTPC, November 2023)
- Draft Guidebook: Implementation of the African Continental Free Trade Agreement (AfCFTA): The Role of Tax and Customs Authorities (WU/ATAF, July 2024)
- ATAF guidance on technology and IFF, 2024

**Open Discussion**

**Context for Discussion:**

Generally, the provisions contained within the AfCFTA are similar to provisions in existing trade agreements such as the World Trade Organisation (WTO) Agreements and the European Union (EU) Agreements but with additional provisions applying to investments. These agreements have led to unique challenges for both domestic and cross-border taxation policies, which are similarly



raised by the AfCFTA. Specifically, the Most favoured Nation (MFN) and National Treatment (NT) obligations have been relied upon to challenge tax policy measures introduced by countries resulting in their reform or elimination. There are a number of additional issues to consider based on the experiences of other customs union and trade frameworks:

- The future of national Value Added Tax (VAT) systems under the proposed single market.
- The trade facilitation needs for customs and revenue authorities.
- The role of tax incentives as potential non-tariff barriers and the need to provide notifications about their introduction or use.
- The potential for tax measures to be disputed as discriminatory and, as a result, treated as potential barriers to trade.
- The interaction of transfer pricing regulation and customs valuation.
- The treatment of and accommodations required for Special Economic Zones.
- The implications of special and differential treatment for non-tariff barrier notifications.

Moreover, trade liberalization raises concerns over trade-based money laundering, specifically through techniques such as under/over invoicing. Loopholes in the implementation of the AfCFTA may increase the risk of Illicit Financial Flows (IFFs).

Tax and customs authorities play a critical role in the successful implementation of the AfCFTA. These authorities oversee aspects of the implementation of trade agreements such as applying rules of origin, revenue collection, safety, security, and other policies that affect cross-border trade. However, the success of these authorities will be dependent on their effective cooperation with partner agencies at the domestic and regional level. This requires clear delineation of roles and responsibilities to avoid duplication that often increases the complexity of customs procedures. For instance, several agencies are involved in clearance of goods at the border and therefore where there is limited coordination, customs processes become complex and time consuming. Moreover, the way in which the Agreement may pose issues for counteracting money laundering, terrorist financing and contraband would require closer cooperation between customs, financial intelligence units and other law enforcement agencies. Countries will therefore need to consider the measures that can be taken to ensure that relevant FATF recommendations and domestic anti-money laundering provisions continue to be respected.

In this respect revenue authorities and law enforcement agencies have entered into varying agreements for effective cooperation and coordination and exchange of information to facilitate trade. As African countries implement the AfCFTA, this session considers the initiatives taken at the regional economic communities (REC)

to increase coordination and cooperation and how these can be translated into the continental level.

15.30 – 16.00 **Coffee Break**

### **PART 3: NEXT STEPS**

16.00 – 17.00 **Session 8: Transitional Phase**

Chair:  
*Jeffrey Owens, WU GTPC*

Issues for discussion:

- This session will provide participants with an opportunity to set out their priorities for the project over the next six months and identify what they would like to see as outcomes in the next stage of the project. Participants will be asked how they would like to see the project continue after December 2024 and which organizations could take over this work.

Speakers:

- Jeffrey Owens, WU
- Richard Stern, WU

Discussant

- Melissa Tullis, Division for Policy Analysis, UNODC
- Emilia Skrok, WB / Emile van der Does de Willebois, WB\*
- Varsha Singh, ATAF\* / Logan Wort, ATAF\*
- Xolisile Khanyile, FIC, South Africa\*
- Annet Oguttu, ATI
- Representative AfDB\*

Documents:

- Tax and good governance: 2015 – 2024

**Open Discussion**

17.00 – 17.15 **Closing ceremony for the Tax & Good Governance 2015-2024 conference**