



TAX AND GOOD GOVERNANCE PROJECT

BEST PRACTICES MANUAL

**Vienna University of Economics and Business
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1. INTRODUCTION

1.1. Project Background

Good tax governance and a corruption-free and transparent tax system are the foundations of sustainable economic development.

The Tax and Good Governance project was launched as a three-year commitment of the Global Tax Policy Center at the Institute for Austrian and International Tax Law of Vienna University of Economics and Business in collaboration with the African Tax Institute (ATI), supported by the Siemens Integrity Initiative bringing together academia, business and government to tackle corruption, bribery, money laundering, tax crimes and other forms of illicit activities in Africa.

1.2. Project Summary:

The project identified risks between corruption, money laundering and tax crimes, promoting the concepts of good tax governance and the importance of a corruption-free and transparent tax systems for economic development. It also provided recommendations on how authorities can cooperate to counter corruption and bribery.

1.3. Program Objectives:

The overarching goal of the program was defined as:

To level the playing field by improving compliance by companies and cooperation between different law enforcement agencies and tax administrations in Africa, to counter corruption, bribery, money laundering, tax crime and other forms of illicit activities.

The objective of the program was to be achieved in several steps:

- Identifying and mobilizing stakeholders in national tax administrations, other law enforcement agencies and private sectors;
- Setting out a research agenda;
- Drafting model national tax legislation and international tax agreements with the aim of country-specific anti-avoidance rules, improving the effectiveness of the tax administrations to undertake controls and audits of both local and multinational companies and fostering better cross-border cooperation between tax authorities
- Building up institutional capacity in African countries and ensuring sustainability by creating networks of 'ambassadors' of key institutions in Africa who are able to disseminate and promote the acquired knowledge on the role of tax authorities in detection of corruption practices.

1.4. Project Timeline

The project was conducted in three phases:

1. Development and Research 2015

This phase identified work already done elsewhere, established the existing gaps, identified key players, set up a research agenda for the whole duration of the project and prepared the groundwork for the following two phases.

2. Implementation 2016-2017

In this phase, the research focused on national legislation, operation of treaties, developed model legislation, treaty language, leading to a proposal of country-specific recommendations. Research work and inputs from independent consultants were discussed at the conferences and trainings.

3. Transition 2017 - 2018

This concluding phase focused on how to enable African-based institutions take the work forward on sustainable basis.

1.5. Key to Program's Success

The key to the success of the project was in bringing together important stakeholders from a 'golden triangle' - government, business and academia - to discuss the critical issues in an open and neutral format. The outcomes of such discussions formed a core to the subsequent policy-relevant research.

2. THE PURPOSE AND SCOPE OF THIS MANUAL

2.1. Introduction

This manual is intended to assist the countries in the implementation of the recommendations and suggestions for improvement of the tax good governance in African countries with the aim of achieving a level-playing field for doing business. The recommendations in this manual focus on measures to address corruption, bribery, money laundering, tax crimes and other forms of illicit activities.

2.2. Structure

The manual is divided into two main parts. The first part covers topics dealt with in the training and capacity-building workshops organized under the project for the year 2016, while the second part covers topics addressed in the 2017 workshops.

2.3. Topics

The best practices in Part I of this manual cover the following topics:

1. Inter-agency cooperation
2. Promoting effective collaboration between different law enforcement agencies by means of MOU at the national and international levels
3. Establishing joint investigations at the national and international levels

The topics covered in Part II of this manual consist of the following:

4. Beneficial ownership
5. Improving asset tracing and recovery mechanisms
6. Using tax treaties effectively to deal with abusive tax avoidance

3. PART I: TOPICS COVERED IN 2016 WORKSHOPS

3.1. *Inter-Agency Cooperation*

3.1.1. Introduction

Domestic multi-agency cooperation should be common practice for tax-related crimes, involving police, customs, environmental authorities, FIUs, prosecutors, and other relevant domestic agencies for sharing information, intelligence, and conducting joint investigations where appropriate. Joint investigative teams which include FIUs are essential to target criminal networks and not just low-level offenders, and have long been used successfully to address other serious crime types.

Countries should ensure that the government agencies that stand to benefit from inter-agency cooperation have effective mechanisms in place, which will help them to cooperate. The agencies should also be able to coordinate domestically with each other measures and provisions that facilitate and enhance good tax governance policies.

3.1.2. Best Practices

3.1.2.1. Clarify the roles of the various agencies involved in prevention of the IFF

Assessment of capacity needs has found that law enforcement agencies encounter considerable difficulties in enforcing laws and regulation when the legislation governing the mandate of the agencies is unclear and ambiguous. Lack of a clear mandate between the different agencies further results in the duties to prevent IFF falling under the jurisdiction of several agencies with overlapping responsibilities.

As a response, countries should clearly define the roles and responsibilities of the different government institutions responsible for combating IFF. These roles should be clearly communicated among the agencies in the form of country-wide consultations and campaigns to raise awareness.

- Road shows to inform stakeholders from the relevant entities (public and private) about FIU's role.
- Further develop the forum with representatives from all relevant stakeholder agencies and educate them on what you do and what they do and how they are relevant to the process.

3.1.2.2. Establish coordinating committee to oversee, promote and develop inter-agency cooperation

In order to facilitate cooperation between different agencies, a coordinating committee should be established, for example, a Cabinet Mandated Coordinating Committee / Task Force promoting spontaneous collaboration and support and oversight over cases. A dedicated task force will be responsible for coordinating investigations across multiple government agencies, thereby avoiding issues with conflicting jurisdictions. It will also be responsible for clarification of areas of expertise among the law enforcement units involved, as well as for information sharing. On the international level, a task force should ensure knowledge and experience sharing with agencies in other countries, as well as for keeping up-to-date with global developments in the field.

3.1.2.3. Develop and equip government agencies with the tools and techniques to combat IFF

There is a variety of tools and techniques that could contribute to achieving the goals of those strategies and make investigations more effective and efficient. These include: IT tools, training and exchange of information and experiences with other tax investigators, FIUs and law enforcement

agencies. Given that the scope of illicit activities goes beyond tax evasion, tax investigators require training on: how to detect and investigate other types of illicit activities, what the relevant legal framework is and what the indicators of illicit activities are.

3.1.2.4. Make amendments to legislation on information exchange

In most jurisdictions, the authority of any government agency to collect information (whether from the public or from any other government agency) is accompanied by regulatory restrictions on how to use this information. These restrictions can limit an agency's ability to share information it has collected with other government agencies, or for purposes other than those for which the information was collected. Similarly, many jurisdictions have principles of privacy that restrict information sharing.

As a response, the agencies should assess the information needs that are pertinent for the fulfilment of their mandates. If the information required could be obtained with recourse to other agencies rather than the general public, legislative amendments should be made to enable such inter-agency exchange, whilst observing the appropriate balance between efficient mechanisms of information sharing and legitimate issues of data protection.

3.1.2.5. Encourage and provide tools for inter-agency knowledge sharing, e.g. Memorandum of Understanding, establishment of fusion centers, secondments, cross-agency trainings, etc.

Sharing knowledge and intelligence with other agencies is crucial, as it optimises the use of limited resources, eliminates duplication of tasks, as well as allows agencies to learn from each other. Sharing of information plays a crucial role in capacity building and enables the development of frameworks for identification of markers of high-risk of IFF, thus minimising the need for audit on a 'case-by-case' basis. FIU's investigations based on a "case by case" approach might inhibit the work of investigators by not being strategically identified and intelligence driven.

There are a number of solutions that could help overcome problems faced by tax administrations, FIUs and law enforcement agencies. Firstly, agencies should be provided with training on the benefits of inter-agency cooperation. Training should gather representatives from different agencies in order to help build networking. Secondly, the liaison framework should be improved. Thirdly, effective channels of exchange of information should be established. This should be underpinned by a clear system of communication and security between agencies.

Sharing knowledge could be achieved by implementing either formal or informal tools. The former includes the use of memoranda of understanding between different agencies, whereas the latter covers secondments, cross-agency trainings, and networking.

Formal collaboration

- Memoranda of Understanding and/or Service Level Agreements
- Governance and coordination arrangements
- Joint investigation teams
- Joint training interventions
- Joint committees to coordinate policies in areas of shared responsibilities

Informal collaboration

- Secondments: bring in support from various agencies to assist with the investigation.
- Training: role of inter-agency cooperation, investigatory methods, risk assessment, recent trends in AML/tax evasion schemes, relevant regulatory framework.

- Inter-agency centers of intelligence/fusions centers
- Inter-agency meetings
- Used of shared databases

3.1.2.6. Enable data sharing via technological means

The actions of not only tax administrations but also other agencies should be supported by a shared and secured database, which could provide relevant and selective information to investigators.

Tax administrations and FIUs face a number of obstacles in working together at the domestic level. They are often not aware of data held by other agencies or they do not have access to data gathered by other agencies. Also, access to third party information is not common practice. In addition, there is lack of data integrity and IT tools are not sufficient to analyse data.

In order to enhance effective cooperation between tax administrations and FIUs, agencies should build a shared database with access granted to all relevant departments. The database should be subject to relevance and security parameters. A specialised unit gathering intelligence of different agencies could also facilitate inter-agency cooperation.

The data can be shared using a cloud server, where data can be securely stored and access granted to the authorised parties. Access should also be granted to the information stored on all public sector databases, subject to data privacy and confidentiality provisions. Systems and interfaces should be designed and developed with interoperability in mind, to facilitate and enable sharing.

Data sharing platforms:

- Allow FIUs access to all related accounts and transactions relating to STRs, CTRs and ML cases.
- Data repository – storage, maintenance, mining, access and users.
- Easy access to information stored on repository with user access rights
- Exploring new technical platforms using modern technologies

It is equally important to ensure that the data stored in the databases and shared across the agencies is complete, accurate and reliable, otherwise the efforts to improve counter-IFF policies with reliance on data sharing will be undermined and ineffective.

3.1.2.7. Integrate the new technologies and advances in digitalisation to upgrade data analysis tools

In order to improve the effectiveness of investigations, FIUs should try to implement IT tools, which gives the possibility of analysing big data and coming up with quality intelligence. Effective investigation should be underpinned by the following sequence of actions: recognition of data required, collecting the data, analysing it and reporting. New technologies could be very helpful to achieve this outcome. As a result, FIUs could play a crucial role in tracing illicit financial flows. They would provide spontaneous intelligence on any particular activity based on information obtained from various entities.

3.1.2.8. Key practical recommendations on how to increase the capacity of government agencies to fight illicit financial flows effectively:

- Training:
 - o Scoping exercise on types of training available and who offers them.
 - o Audit of training completed by officials and training gaps.

- o Specialized (specific) training developed by UNODC on a needs basis for FIUs.
- Advisory notes.
- Secondment and capacity building by skills/knowledge sharing within and across government agencies involved in investigations.
- Pro-active approach to financial intelligence:
- o Big data mining of data stored across government departments by generating exception reports for analysis.
- o IT skills relevant for the digital age of big data analysis.
- o Use software tools to trace money flows i.e. GOAML and TRACE.
- o Introduce Bank Verification Number (BVN) concept locally and/or the Legal Entity Identifier (LEI) (international standard).
- Adequate budgets using performance based budgeting:
- o Create relevant indicators appropriate to FIUs including feedback reports.
- Funding cooperation.

3.1.2.9. Key practical recommendations on how best to deal with legislative, administrative and operational challenges:

- A Value chain should be developed identifying the various stakeholders across the legislative, administrative, tactical and operational levels.
- Unique identification number such as LEI or the Nigerian BVN could be considered.
- Importance of National Risk Assessments.
- Cooperation prevents the duplication of effort (parallel investigations).
- Legislation:
- o Consistency and coherence in regulation regarding information exchange (spontaneously, on request or on obligation).
- o Open up legislative restrictions in obtaining information from relevant agencies.
- Data (administrative and operational):
- o Systematic data and shared information in the cloud – access to information stored securely in the cloud.
- o Access to all public sector datasets. Gather data available in the public sector not shared as it is confidential.
- o Interconnectivity to provide access to data bases.

3.1.2.10. Design policies set at education of the taxpayers to raise awareness of their respective rights, liabilities and responsibilities

The strategies aimed at curbing illicit financial flows should be supplemented by a broad set of other activities aimed at improving tax compliance, including education of taxpayers.

3.1.2.11. Inter-agency cooperation at the international level

While the capacity to collect, manage and analyse information and intelligence is vital to effective law enforcement at the national level, additional resources are also needed to ensure agencies can

also manage and communicate internationally to exchange intelligence with other countries. This requires law enforcement agencies to have access to international communication networks, supported by IT infrastructure (including databases, computer networks and analytical software) and skilled staff to interpret and analyse the information received from other countries (often in different languages and expressed in the local context).

The capacity to collect, manage and analyse information received from other countries adds value to cross-border law enforcement efforts, including facilitating strategic and tactical decision making. Information that has been evaluated, collated, put in context and analysed can be used to identify links between criminal networks, and high-risk areas. Improving information sharing between law enforcement agencies at the international level allows for international cross-referencing, resource need identification, and exchange of best practice information.

To combat IFF efficiently, law enforcement should adopt pro-active intelligence-led approaches, allocating resources to support information gathering, analysis and sharing. It is particularly important when tackling transnational IFF that information is circulated among the countries concerned. However when sharing information, law enforcement authorities must ensure they are using a secure network.

3.1.3. Additional Recommended Materials

- Coherent Policies for Combating Illicit Financial Flows, United Nations Office on Drugs and Crime (UNODC) and Organisation for Economic Co-operation and Development (OECD), July 2016 (read here: http://www.un.org/esa/ffd/wp-content/uploads/2016/01/Coherent-policies-for-combatting-illicit-financial-flows_UNODC-OECD_IATF-Issue-Brief.pdf)
- Consolidated FATF Standards on Information Sharing, Relevant excerpts from the FATF Recommendations and Interpretive Notes, FATF, June 2016, Updated November 2017 (read here: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/Consolidated-FATF-Standards-information-sharing.pdf>)
- Improving Co-operation Between Tax and Anti-Money Laundering Authorities, Access by Tax Administrations to the Information Held by Financial Intelligence Units for Criminal and Civil Purposes, OECD, September 2015 (read here: <https://www.oecd.org/ctp/crime/report-improving-cooperation-between-tax-anti-money-laundering-authorities.pdf>)
- Egmont Group of Financial Intelligence Units Principles for Information Exchange Between Financial Intelligence Units, Egmont Group, July 2013 (read here: <http://www.ppatk.go.id/backend/assets/uploads/20160930143939.pdf>)
- Egmont Group of Financial Intelligence Units Operational Guidance for FIU Activities and the Exchange of Information, Egmont Group, July 2013 (read here: https://egmontgroup.org/en/filedepot_download/1658/38)

3.1.3.1. OECD:

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- OECD, Effective inter-agency co-operation in fighting Tax crimes, OECD Publishing, Paris, 2013. Available at: <http://www.oecd.org/ctp/crime/EffectiveInterAgencyCooperationinFightingTaxCrimes.pdf>
- OECD, Illicit Financial Flows from Developing Countries: Measuring OECD Responses, OECD Publishing, Paris, 2014.
- OECD/African Development Bank, Stocktaking of Business Integrity and Anti-Bribery, 2012.

- OECD Annex to Common Standard on Reporting and Due Diligence for Financial Account Information (“Common Reporting Standard”) Section III C 2c; Section IV A; Section IV D; Section VI.
- OECD Multilateral Convention: Commentary on the provisions of the Convention
- OECD Standard for Automatic Exchange of Financial Account Information: Common Reporting Standard. Available at <http://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf>.
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- OECD (2009), The Bribery Awareness Handbook for Tax Examiners and Tax Auditors, OECD, Paris, France, www.oecd.org/dataoecd/20/20/37131825.pdf
- OECD, Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors, 2013.
- OECD, Tax administration: detecting corruption, CleanGovBiz Initiative, July 2012.
- OECD, Forum on Tax Administration, Information note. Working smarter in structuring the administration, in compliance, and through legislation, January 2012.
- OECD, Forum on Tax Administration’s SME Compliance Sub-Group, Information note: Reducing opportunities for tax non-compliance in the underground economy, January 2012.

3.1.3.2. UN

- UN, Outcome Document of the Third International Conference on Financing for Development: Addis Ababa Action Agenda, 15 July 2015.
- Report of the High Level Panel on Illicit Financial Flows from Africa commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development., Track it! Stop it! Get it! Illicit Financial Flows, January 2015.
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- UNODC (United Nations Office on Drugs and Crime) (2004), Practical Anti-Corruption Measures for Prosecutors and Investigators, Vienna, Austria, www.unodc.org/pdf/crime/corruption/Handbook.pdf
- United Nations (2000), United Nations Convention against Transnational Organised Crime, United Nations, New York, US, www.unodc.org/unodc/en/treaties/CTOC/index.html
- Coherent policies for combating Illicit Financial Flows United Nations Office on Drugs and Crime (UNODC)/ Organisation for Economic Co-operation and Development (OECD), Issue Brief Series, July 2016

3.1.3.3. FATF and FATF Style Regional Bodies

- FATF CONSOLIDATED FATF STANDARDS ON INFORMATION SHARING Relevant excerpts from the FATF Recommendations and Interpretive Notes, updated November 2017 2016 - <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/Consolidated-FATF-Standards-information-sharing.pdf>
- FATF, FATF Report to the G20 Beneficial Ownership September 2016 - <http://www.fatf-gafi.org/media/fatf/documents/reports/G20-Beneficial-Ownership-Sept-2016.pdf>
- International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. The FATF Recommendations, February 2012.
- Best Practices Paper: The Use of the FATF Recommendations to Combat Corruption, October 2013.
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- FATF-GAFI, Report Operational Issues Financial Investigations Guidance - http://www.fatf-gafi.org/media/fatf/documents/reports/Operational%20Issues_Financial%20investigations%20Guidance.pdf
- EGMONT GROUP OF FINANCIAL INTELLIGENCE UNITS OPERATIONAL GUIDANCE FOR FIU ACTIVITIES AND THE EXCHANGE OF INFORMATION Approved by the Egmont Group Heads of Financial Intelligence Units July 2013
- EGMONT GROUP OF FINANCIAL INTELLIGENCE UNITS PRINCIPLES FOR INFORMATION EXCHANGE BETWEEN FINANCIAL INTELLIGENCE UNITS Approved by the Egmont Group Heads of Financial Intelligence Units July 2013

3.1.3.4. Global Financial Integrity

- Illicit Financial Flows from the Developing World: 2003-2012, December 2014.
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3.2. Promoting Effective Collaboration between Different Law Enforcement Agencies by Means of MOUs at the National and International Levels

3.2.1. Introduction

Collaboration between different law enforcement agencies is the key to combating illicit financial flows (IFFs). The multifaceted nature of IFFs requires diversified functions, expertise and experience and as such calls for cooperation between the tax administrations, financial intelligence units and different law enforcement agencies.

There are numerous ways in which law enforcement agencies may establish some channels or platforms that would facilitate their cooperation or would make it more effective. Among them, an MoU is often presented as the most comprehensive way of providing for collaboration between different law enforcement agencies. It is used to provide modalities of exchange of information.

The aim of MoUs is to identify the basic elements that facilitate the process to be used to guide officials in their daily tasks. The content of MoUs should be compliant with the law and provide details to existing regulation. MOUs should not create any binding legal obligations upon the agencies.

MoUs may therefore help foster a common understanding of objectives, procedures and roles of agencies. They may help build trust and confidence between agencies. They may also improve mutual transparency and reduce bureaucracy. Moreover, it may be the source of clear limitations in exchanging information between agencies. In the longer term it may help reinforce accountability of the participating agencies.

3.2.2. Best Practices

3.2.2.1. Before signing the MoU

The characteristic features of law enforcement agencies that are willing to develop the MoU in order to facilitate cooperation between themselves, need to be acknowledged before negotiation of the specific MoU. There are many potential issues that may have an impact on the shape of the MoU as well as even on a decision to sign it. In preparation for the creation of the MoU, the participating agencies need to discuss why the MoU is advisable and whether it could be potentially replaced by other instruments. In addition, the participating agencies need to reflect upon the potential implication of developing the MoU: how it may impact the use of resources and what political implications it may have. Already at this stage it needs to be decided which official has executive authority for negotiation, signing and execution of the MOU and who should effectively lead the group in this process.

Questions to be considered when planning a MoU

- What are the goals of signing a MoU?
- Is a MoU the appropriate instrument to achieve these goals?
- Would it be possible to achieve the same goals without signing a MoU or by other means (e.g. exchange of letter)?
- Which agency will be invited to sign the MoU (the tax administration, FIU, customs, or ...)?
- Which MoU would be better tailored to achieved its goals: multilateral or bilateral?
- What are the potential political implications of signing the MoU?
- Which agencies should be involved?
- Who has executive authority for the signing and execution of the MoU?
- Who should lead the process of the MoU negotiation?
- Will it require the use of technology? Or perhaps the use of technology could facilitate the MoU execution?
- What will be the technical platform?
- What are the platforms already used by agencies signing the MoU?

3.2.2.2. *MoU sections*

3.2.2.2.1. General remarks

As already mentioned, there is no single template that agencies could follow in developing their own MoU. However, some organizations provide a recommended draft to agencies of their member states.¹ Below is a coverage of the most relevant sections of different MoUs. Agencies may, however, find it essential to add some other sections or not include some of these.

The MoU for the purpose of the inter-agency cooperation may consist of the following sections:

1. Introduction to the MoU.
2. Purpose of the MoU.
3. Scope of the MoU.
4. Policy of the MoU.
5. Oversight of the MoU.
6. Compliance with the MoU.

Below we discuss these sections. Each description consists of: general remarks explaining the role of a particular section, some questions for consideration of the participating agencies and a model provision exemplifying the content of a particular section.

¹ For instance, the Egmont Group of Financial Intelligence Units provides its member financial intelligence units with a model MOU, which they are free to use in negotiations. See: Egmont Group of Financial Intelligence Units, Operational guidance for FIU activities and the exchange of information, Approved by the Egmont Group Heads of Financial Intelligence Units, July 2013.

3.2.2.2.2. Introduction to the MoU

The aim of the introduction to the MoU is to present the MoU. Thus, it should indicate parties to the MoU, i.e. agencies participating in the agreement. It should also explain the rationale for entering into the MoU. In addition, it should provide an overview of the content of the MoU.

Questions to be considered when drafting the “Introduction to the MoU”

- What agencies are participating in the MOU?
- For what capability or resource is this MOU being created?
- Why is this MOU necessary?
- What agreements are set forth by this MOU?
- Under what authority is this agreement being executed?

Example:

“This Memorandum of Understanding (MOU) was established for the purpose of exchange of information between _____ and _____ in order to increase effectiveness in the fight against all forms of financial crimes, such as tax crimes, bribery corruption, money laundering and terrorism financing.

The agreement set forth in this MOU should detail all applicable aspects of exchange of information, including the mode of exchange of information, format of information exchanged, types of information exchanged, and governance of the entire proceedings described.

This MOU is being implemented under the following authority: _____ (name the law).”

3.2.2.2.3. Purpose of the MoU

The section on the purpose of the MoU should provide a concise explanation of what goals the agencies aim to achieve by participating in this agreement. In this way, agencies may want to explain how they are planning to use the new capability provided by the MoU and under what circumstances.

Questions to be considered when drafting the “Purpose of the MoU”

- What is the intention of the proposed capability that makes the MOU necessary?
- How will the agencies involved use the new capability?
- Under what circumstances will the involved agencies use the new capability?

Example:

“Being aware of the need and significance for cooperation of authorities combating all forms of financial crimes such as tax crimes, bribery corruption, money laundering and terrorism financing;

By assessing the fact that the fight against all forms of financial crimes is determined as main action priority and by expressing readiness for cooperation;

Knowing that the effective fight against all forms of financial crimes requires pooling knowledge and skills of different agencies;

Being aware of the fact that cooperation in the investigation area makes a significant and decisive contribution in efforts for increasing the effectiveness of the fight against all forms of financial crime;

Acknowledging the fact that such cooperation may create a mutually beneficial relationship that will assist each authority in the performance of their respective roles in ensuring effective discharge of their respective obligations;

Aiming to accomplish the above-mentioned objectives through strengthening inter-institutional cooperation by information sharing.”

3.2.2.2.4. Scope of the MoU

The section on the scope of the MoU is an important part of this agreement. It provides a number of operational parameters of cooperation between the participating agencies. In this section the participating agencies may want to cover the following issues:

- a) agreement on the mode of exchange of information,
- b) agreement on the format of information exchanged,
- c) deliverables (reporting, success stories),
- d) security/privacy disclosures,
- e) suspension of the MoU,
- f) defined periods of engagement (expiration, termination and renewal).

Below each of points is discussed briefly.

3.2.2.2.4.1. Agreement on the mode of exchange of information

In case of the MoU setting a modality for exchange of information between agencies, an agreement on the mode of exchange of information may be a key subsection and therefore may need to be carefully discussed by the participating agencies. In particular, they may want to reflect upon the following aspects:

- the type of information exchanged,
- circumstances under which a piece of information should be forwarded to the other participating agency,
- a special procedure for urgent request for information,
- operational aspects of the exchange of information, i.e. a format of request for information, a format of information forwarded to the other participating agency, appointment of officials in charge of exchanging information, contact details, deadlines for response to a request for information,
- an option and circumstance under which the requested agency may refuse to send it.

Example:

“This MoU sets forth a framework whereby _____ (name of agency) and _____ (name of agency) to the extent allowed by the laws of their respective codes of conduct, policies and procedures of their respective institutions, disseminate to each other information relevant to intelligence gathering concerning financial transactions suspected of being related to all forms of financial crimes, in particular, tax evasion, corruption, money laundering, financing of terrorism, and related unlawful activities either spontaneously or on request directed by a party requiring the information

(hereinafter referred to as “THE REQUESTING AUTHORITY”) to a party who has possession or control of the required information (hereinafter referred to as “THE REQUESTED AUTHORITY”).

Where a requesting authority shall require information relevant to the gathering of intelligence connected with any form of financial crime, such tax evasion, corruption, money laundering, terrorism financing offences predicate thereto, the REQUESTING AUTHORITY shall forward to the REQUESTED AUTHORITY a request stating the set of information required, the purpose for which the information is required and any further particulars that may be relevant to the timely and efficient response to the request within the spirit and intent of this MOU.

A request under this MOU shall be in writing, dated and signed by or on behalf of the Authority making the request.

A request must:

- a) confirm the gathering of intelligence on, investigation or prosecution being carried out in respect of any form of a financial crime (tax evasion, corruption, suspected unlawful activity, money laundering offence financing of terrorism offence) or any activity incidental or ancillary thereto or the conviction of a person or entity of this type of activity.
- b) state the grounds on which any person or entity is being investigated, prosecuted or convicted of any form of financial crime, such tax evasion, corruption, money laundering, terrorism financing offences, and give details of the conviction or any process triggered against the person or entity contemplated hereby.
- c) confirm the gathering of intelligence on, investigation or prosecution being carried out in respect of any form of a financial crime (tax evasion, corruption, suspected unlawful activity, money laundering offence financing of terrorism offence) or any activity incidental or ancillary thereto or the conviction of a person or entity of this type of activity.
- d) state the grounds on which any person or entity is being investigated, prosecuted or convicted of any form of financial crime, such tax evasion, corruption, money laundering, terrorism financing offences, and give details of the conviction or any process triggered against the person or entity contemplated hereby.
- e) give particulars sufficient to identify the person or entity against whom an investigation, prosecution, conviction or any process contemplated hereby has been triggered.
- f) give particulars sufficient to identify any reporting entity or other person believed to have information, documents or material of assistance to the investigation, prosecution or any process hereunder that has been triggered.
- g) request the competent authority to whom the request is addressed to obtain from any person or entity contemplated in paragraph (d) all or any information, documents or material of assistance to the investigation or prosecution referred to in paragraph (a);
- h) specify the manner in which and to whom any information, documents or materials obtained, pursuant to the request is to be produced;
- i) contain any other information or particulars as may assist in the execution of the request.

The REQUESTING AUTHORITY must give a preamble stating to the extent possible the brief facts underlying the process that triggered the request.

The REQUESTING AUTHORITY must be clear and specific about the information or set of information requested.

In the case of urgency, it shall be sufficient that requests duly signed by the REQUESTING AUTHORITY are emailed to the REQUESTED AUTHORITY.

All communications between the Authorities under this MOU shall take place in _____ (language).

Any correspondence made or notices sent, to be sent or required to be made under this MOU to the _____ shall be in writing, signed by the Authority giving such notice or making the correspondence and shall be delivered by secure email, secure facsimile transmission or by registered mail, to _____ or at such other address as the _____ may subsequently notify.

An Authority upon having at their disposal or in their possession any information of suspicious transaction or any activity or conduct that can be connected to any form of financial crime, such as tax evasion, corruption, money laundering, terrorism financing, or any conduct whatsoever incidental or ancillary to them (hereinafter referred to as “THE CO-OPERATING AUTHORITY”) may on their own motion forward to the other Authority (hereinafter referred to as “THE INFORMED AUTHORITY”) for whom the information may be reasonably necessary for intelligence gathering covered by this Memorandum without the need for a formal request being issued.

An Authority upon receipt of information under this MOU shall within ____ (number of day or weeks) or so soon thereafter forward in writing to THE REQUESTED AUTHORITY or the CO-OPERATING AUTHORITY an acknowledgement of receipt thereof.

The REQUESTED AUTHORITY may within ____ (number of days) working days or so soon thereafter upon receipt of the request forward in writing a notice to the Requesting Authority acknowledging receipt thereof stating its decision to execute the request or refusal to do so.

Provided that where the REQUESTED AUTHORITY shall indicate a decision to execute a request, they shall indicate in their response a time line within which they intend to complete the execution of the request.

The REQUESTED AUTHORITY shall indicate in their response, a refusal to execute the request received, they shall indicate the reasons for refusing to execute the request.”

3.2.2.2.4.2. Deliverables (reporting, success stories)

In order to improve the quality of the processes based on the MoU and to internalize the MoU, the participating agencies may need feedback on the relevance of the information exchanged to their investigations. Thus, the participating agencies may want to impose an obligation on officials in charge of the exchange of information to report back on progress made in the investigation or any process triggered by the information collected.

Example:

“An Authority receiving information shall update THE REQUESTED AUTHORITY or the CO-OPERATING AUTHORITY on progress made in the investigation or any process triggered by the information collected.

Each member of the Agency shall provide a formal and *ad hoc* report relating to the interoperability capability as a result of this agreement.”

3.2.2.2.4.3. Security/privacy disclosures

Taking into account the confidentiality of information exchanged by the participating agencies, provisions dealing with security/privacy are very important in the context of a MoU. Although the confidentiality of information held by agencies is usually ensured by the law, agencies may want to allocate a separate subsection in their MoU dealing with this, confirming the confidential nature of exchanged information and explaining how it will be ensured.

In this subsection the participating agencies may also want to delimit the scope of use of the exchanged information by the agency receiving the information. This may also address the possibility of sharing the exchanged information with any or only a select group of third parties. Agencies may agree that this procedure would depend on a previous consent of the agency that forwarded the

information. In this subsection the agencies may also decide on the circumstances under which the agency will not provide its consent to sharing the exchanged information with the third party.

Example:

“Any information or documents obtained under the terms of this MOU shall be treated as strictly confidential.

Information or documents obtained from the respective Authorities under the terms of this MOU shall be used only for intelligence purposes and shall not be disclosed or disseminated to any third party, nor be used as evidence in any court proceedings without the prior written consent of the REQUESTED AUTHORITY.

Where the information obtained under this MOU is sought to be disclosed to a third party, the REQUESTING AUTHORITY shall, before making such disclosure, obtain the prior written consent of the Requested Authority for the disclosure.

Provided that the request to the REQUESTED AUTHORITY, shall, among others, state the third party to whom the information is sought to be disclosed, the basis for the request for disclosure and the purpose that will be served by the disclosure.

The Authorities shall not permit the use or release of any information or document obtained under this MOU for any purposes other than those stated in this MOU without the prior written consent of the REQUESTED AUTHORITY.

The REQUESTED AUTHORITY may not disclose information contained in the request to any party not identified in the request without the prior consent of the REQUESTING AUTHORITY. Provided that, nothing in this MOU shall bar the Requested Authority from transmitting the received information to other appropriate agencies.

Where an Authority is subject to legal processes or proceedings that could require the disclosure of information it has received from the other Authority, the Authority subject to such process or proceedings will immediately notify the other Authority and seek their consent accordingly.

In the event that the other Authority shall consent to the disclosure of its information as required by this MOU, the Authority subject to the legal process or proceedings shall make reasonable efforts to ensure that the information is not disseminated to any third party or that appropriate limitations are placed upon the disclosure.

Any consent shall not be withheld unreasonably.”

3.2.2.2.4.4. Suspension of the MoU

The suspension subsection may provide circumstances upon which agencies will not be obliged to share information. The provided reasons should be in compliance with the law upon which agencies are allowed to exchange information.

Example:

“The REQUESTED AUTHORITY under this MOU shall be under no obligation to execute a request, if they determine that:

- (a) the action sought by the request is contrary to a provision of the laws of its respective codes of conduct, policies and procedures of its respective institutions,
- (b) the release of the information requested may unduly prejudice an investigation or proceeding of the requested Authority, or if judicial proceedings have already been initiated concerning the same facts as the request is related to.”

3.2.2.2.4.5. *Defined periods of engagement (expiration, termination and renewal).*

Similar to any other types of agreement, a MoU should set forth periods of engagement. These may cover:

- circumstances under which agencies may review the MoU,
- an appropriate procedure for the review of the MoU (e.g. dates).
- circumstances under which the MoU may be terminated,
- an appropriate procedure for the MoU termination.

Example:

“The Authorities shall be at liberty to review or amend this MOU in compliance with the provisions thereof.

An Authority proposing an amendment or review shall communicate to the other Authority in writing their intention to review or amend stating the reasons for the amendment or review and giving sufficient details of the proposed review or amendment.

An Authority upon receipt of the notice given within _____ (number of days or weeks) or so soon thereafter shall forward a response thereto in writing stating their decision to accede to the proposed review or amendment or their refusal to do so.

An Authority shall indicate in their response to a notice and a decision to accede to the proposed amendment or review that the proposed amendment or review shall take effective immediately upon receipt thereof.

A notice including a refusal to accede to the proposed amendment or review of the proposed amendment or review shall be deemed to have been set aside immediately upon receipt thereof. Nothing in this clause shall preclude the authorities from further negotiations with respect to the proposed amendment or review hereby set aside.

Any amendment or review agreed upon under this MOU shall be reduced to writing and duly signed by the authorised representatives of the respective Authorities.

Any amendment or review executed shall form an inseparable part of this MOU.

This MOU shall become operational on the date it is executed by the Authorities and shall remain in force until it is terminated by the Authorities.

Each of Authorities shall be at liberty to terminate this MOU at any time after execution thereof.

Provided that where an Authority decides on terminating this MOU, it shall notify the other authority in writing of its decision to terminate stating reasons therefor in compliance with the terms of this MOU.

An authority upon receipt of notice of this MOU shall, within ____ (number of days) working days or so soon thereafter, acknowledge in writing receipt thereof.

Where a terminating Authority shall receive an acknowledgement of receipt of notice issued, the MOU shall be deemed to have been terminated two clear weeks thereafter.

Provided that nothing in this Clause shall preclude the authorities from further negotiations with respect to the notice of termination contemplated hereby.

Where this MOU is terminated in compliance therewith, the terms and conditions of this Memorandum dealing with the confidentiality of information received prior to the termination of this MOU shall remain in force after the termination of this MOU.”

3.2.2.2.5. Policy of the MoU

The policy section of the MOU should contain guiding principles that the participating agencies will apply with respect to applying the MoU in their daily operations. Thus, it may address a broad range of issues: from data security to liability of officials operating based on the MoU. In this section the participating agencies may also want to express values guiding officials in executing the MoU.

Questions to be considered when drafting the “Policy of the MoU”

- How do you define and ensure data security?
- How do you deal with the laws on third-party sharing?
- How will the data be stored and when will they be deleted?
- What will be the availability of the agencies involved?
- What will be the liability of the agencies involved?
- Will there be any authorization required to access exchanged information?
- How to protect data from misuse?
- What is the relation of the MoU to the other agreements signed by the participating agencies?

Example:

“This MOU shall not create any binding legal obligations upon the Authorities.

The Authorities undertake to implement this MOU based upon a foundation of mutual trust, equality and for each other’s mutual benefit.

This MOU is hereby entered into on a non-exclusive basis and shall not preclude the Authorities from entering into similar Memoranda or arrangements with other authorities.

This MOU shall not affect any arrangements under any other Memorandum that either Authority has entered into.”

3.2.2.2.6. Oversight of the MoU

The oversight section describes the governance structure under which the MOU will be administered. It may also describe how execution and implementation of this solution could be integrated into an existing governmental structure.

Questions to be considered when drafting the “Oversight of the MoU”

- What governance structure oversees the use of this capability/resource and enforces all requirements of this MOU?
- Who is the chair of this governance structure and how is he/she appointed?
- What are the participation requirements in this governance structure of agencies entering this MOU?
- How are issues affecting policy, recommendations, and/or subsequent changes resolved by the governance structure?

Example:

“To facilitate smooth communication and to ensure continuity in the co-operation between the Authorities _____ (name of the agency) hereby designates the Director as the contact person and _____ as the alternate contact person.

To facilitate smooth communication and to ensure continuity in the co-operation between the Authorities _____ (name of the agency) hereby designates the Director as the contact person and _____ as the alternate contact person.

Authorities have the discretion to vary the contact or alternate contact person, or appoint other or additional alternate contact persons.

In the event of any disagreement, controversy or dispute arising under this MOU, the parties hereto shall endeavour to settle such dispute amicably through dialogue and consultation. ”

3.2.2.2.7. Compliance with the MoU

The agencies participating in the MoU may want to ensure that officials obliged to operate in accordance with the MoU will follow their obligations. Thus, the section referring to the compliance with the MoU may play an important role.

In the section on compliance with the MOU, the participating agencies may assign responsibility to develop operational responsibilities and to ensure they are followed. Each of agencies participating in cooperation may want to conduct its own functional and performance test to validate that officials are operating in compliance with the MoU.

Questions to be considered when drafting a part “Compliance with the MoU”

- Who is responsible for ensuring that the operational responsibilities associated with this capability/resource are followed and that individual agency personnel are trained appropriately?
- How will compliance be ensured?
- What is the decision making process within the governance structure?
- How do individual agencies establish oversight authority for the capability/resource?
- How should the oversight authority achieve consensus?

Example:

“It is the responsibility of Agency heads to ensure that operational responsibilities hereby stipulated in the MOU are followed when necessary and to ensure that agency personnel are trained appropriately.”

3.2.2.2.8. Updates to the MoU

The final part of the MoU should reflect on the potential future amendments of the MoU. The amendments may be a result of any changes in environment in which agencies operate. Changes may be in the laws, the possibility to employ new technologies or other factors that may have an impact on the operations of agencies.

Thus, the MoU should provide for a procedure that instructs agencies how to amend the MoU. Among others, the relevant provisions may set out the circumstances which require the MoU to be amended, officials in charge of the MoU amendments and the adequate procedure.

Questions to be considered when drafting the “Updates to the MoU”

- Who has the authority to update/modify this MOU?
- How will this MOU be updated/modified?
- Will updates/modifications require this MOU to have a new signature page that verifies the understanding of changes by each participating agency?
- Who maintains the original documentation?

Example:

“The Authorities shall be at liberty to review or amend this MOU in compliance with the provisions thereof.

An Authority proposing an amendment or review shall communicate to the other Authority in writing their intention to review or amend stating the reasons for the amendment or review and giving sufficient details of the proposed review or amendment.

An Authority upon receipt of the notice given within _____ (number of weeks or days) or so soon thereafter shall forward a response thereto in writing stating their decision to accede to the proposed review or amendment or their refusal to do so.

An Authority shall indicate in their response to a notice and a decision to accede to the proposed amendment or review that the proposed amendment or review shall take effective immediately upon receipt thereof.”

3.2.2.3. Implementation of provisions stipulated in the MoU

Once the MoU is signed, it needs to be properly implemented into the operations of participating agencies. It is essential to ensure that a set of actions is planned with the aim of facilitating the implementation of the MoU. Each agency separately or together may reflect on a possible action plan that will support their officials in understanding objectives of the MoU and expected activities.

The action plan supporting implementation of the MoU may include internal and external communication. The internal communication aims at ensuring that all officials operating in the agency concerned are aware of new modalities required by the MoU. The communication may

provide for explanation of the rationale for signing the MoU, reasons for the choice of the agency, expected benefits from the MoU and description of operations.

Besides the internal communication, agencies may want to communicate the new modality of cooperation to wider stakeholders.

An important element of the action plan supporting the implementation of the MoU may be a training program. The aim of the training program should be raising awareness of the relevance of cooperation with other agencies.

3.2.2.4. Templates on Memoranda of Understanding

See Annexes 1 and 2.

3.3. Establishing Joint Investigations at the National and International Levels

3.3.1. Introduction

For large and complex financial investigations into corruption, tax evasion and money laundering, it is worth considering setting up and conducting joint investigations which may take the form of a multidisciplinary group or task force. This will ensure that the investigation, prosecution and eventual confiscation of proceeds of crime are handled efficiently and thoroughly covering all possible angles.

In order to establish effective and efficient joint investigation teams or task forces, the country should adopt a strategic approach to intra-agency and inter-agency cooperation within and between agencies and with foreign counterparts. Key consideration should be given to the following issues.

3.3.1.1. Rationale for joint investigations

3.3.1.1.1. FATF Recommendations on Task Forces or Multidisciplinary Teams

Recommendation number 30 of the 2012 FATF Standards outlines the responsibilities of law enforcement and investigative authorities. It calls on countries to designate criminal investigators to pursue money laundering and terrorist financing offences. These include the need to pursue parallel financial investigations as well as to make use of domestic and international investigative task forces or multidisciplinary teams. It also requires putting in place safeguards to ensure that the legal framework of countries does not impede the usage of such multi-disciplinary groups.

The recommendation requires countries to be proactive in developing effective and efficient strategies to make financial investigations an operational part of their law enforcement efforts. The strategic plans should, among other key elements, include:

- The creation of specialised investigative units that focus on financial investigations;
- Articulating clear objectives for relevant departments and agencies that include effective coordinating structures and accountability; and
- Ensuring support from high-level officials within the country who publicly promote and adopt a national AML/CFT strategy.

3.3.1.1.2. Why joint investigations

An essential element for effective inter-agency co-operation in combating financial crime is information sharing amongst concerned agencies. Although there are several legal gateways to enable information sharing amongst agencies, a number of countries have introduced different models or operational mechanisms to allow agencies which enable agencies to work together to their mutual benefit.

One such legal gateway is the formation of joint investigation teams or task forces. Joint investigation teams may be structured as a permanent task force or drawn together for the purposes of a specific case.

The rationale for joint investigation teams stem from the fact that:

- Financial crimes are complex. Further, criminal activity may include a number of connected crimes but which may require investigation by different agencies. The fragmentation of the investigative role may therefore not allow an agency to have a clear picture of the crime because the individuals and/or organisations involved are investigated by different agencies for separate offences. A joint investigation team or task force allows the agencies to co-operate directly and provide a clear picture of the crime.

- Joint investigations allow for more direct and immediate sharing of information. In some cases, gateways for sharing information are wider when agencies are engaged in a joint investigation than they would be in other circumstances.
- It also allows the teams from different agencies to better co-ordinate investigations to make best use of their technical skills and legal powers.
- Joint investigations enable agencies with a common interest to work together in an investigation. In addition to sharing information, this enables an investigation team to draw on a wider range of skills and experience from investigators with different backgrounds and training.
- Joint investigations can allow officials within different agencies to develop a network of contacts, increasing the level of understanding of each other's work and improving the efficiency of other areas of co-operation.
- Joint investigations can also enhance efficiency by preventing duplication which could arise if several investigations were run in parallel by different agencies. This can lead to cost savings
- They can allow for specialisation whereby officials from each agency focus on different aspects of an investigation, depending upon their experience and legal powers.

Examples of countries that are using joint investigations to enhance inter-agency co-operation include Australia, Austria, Canada, Denmark, Finland, India, Japan, Luxembourg, the Netherlands, Portugal, Slovenia, South Africa, Turkey and the United States.

3.3.1.2. Potential barriers

Barriers to effective inter-agency co-operation prevent agencies responsible for combating financial crimes from working together. These barriers include:

- Administrative barriers: traditionally the obstacles to coordination between government agencies stem from fundamental properties and motivations of organizational systems. These include issues such as:
 - each agency seeks to preserve its autonomy and independence;
 - organizational routines and procedures are difficult to synchronize and coordinate;
 - organizational goals differ among collaborating agencies; and
 - constituents bring different expectations and pressure to bear on each agency.
- Legal barriers: these include specific restrictions and prohibitions which apply to prevent an agency obtaining access to relevant information from counterparty agencies.
- Operational barriers: these include complex or lengthy procedures for obtaining information from another agency, a lack of awareness of the availability of information or other mechanisms for co-operation, or a lack of specialist training which reduces the effectiveness of gateways which do exist.
- Political barriers: these include a lack of support for agencies to adopt a whole-of-government approach, or to make the changes required to remove or reduce legal and operational barriers.

3.3.2. Best Practices

3.3.2.1. Pre-formational issues

- Political buy at the highest level is paramount for the joint investigation team or task force to succeed.
- Equally important is the buy in of the heads of the relevant agencies that may then compel their officers to collaborate.
- It is vital that there is a need to:
 - Identify the problem;

- Map out possible agencies involved (for example the tax and customs administration, other government and law enforcement agencies, business community and other international and domestic players); and
- Identify potential impediments (for example lack of trust, secrecy and confidentiality) and enablers (for example legislation, international conventions, tax information exchange agreements and treaties).

3.3.2.2. *Formational issues*

3.3.2.2.1. Legal mandate

- The legal status of the multidisciplinary group or task force should be clarified. Its mandate should be anchored in law or it should derive its formative powers from an executive order which can withstand a legal challenge from individuals or corporations who, while under investigations may claim that it has no power to investigate them. A proper mandate may also compel all agencies to participate in its activities.
- All the agencies incorporated into the team should also have the backing of law to carry out their individual mandates so as to not jeopardize the activities of the group.

3.3.2.2.2. Terms of reference

- The team or task force should have clear and specific terms of reference with expected deliverables.
- The role and responsibilities of each agency should also be clearly outlined.

3.3.2.2.3. Capacity and resources

- Any joint investigative team will need resources, both financial and technological. In most developing countries, most law enforcement agencies have priorities for the funding they get allocated which may not leave much for joint exercises with other agencies which they don't deem a priority. It is therefore advisable to determine at an early stage the funding requirements and from where the funding for the team will come.
- It is also equally important to establish the capacity available within all the relevant agencies. As a result one should look at the personnel skills, knowledge, and expertise needed, their current workload and their availability as well as the availability of other resources such as IT.

3.3.2.2.4. Term limit

- It is also important to clearly determine the life span of the joint investigation team.
- For a task force with a limited time frame, it may be necessary to determine plans for continuity after the term comes to an end for purposes of continuity. A good example is in Kenya where a task force formed to counter counterfeit products gave way to the creation of the Kenya Anti-Counterfeit Agency.

3.3.2.3. *Composition*

- An efficient and effective joint investigation team should bring together all agencies that cover all facets of financial crimes.
- However, in some instance the composition may be limited to select agencies depending on the issues at hand.

- It is therefore critical to map out each agencies mandate as well as skills and knowledge set they have accumulated to enable them fulfil their mandate and share responsibilities accordingly.
- The agencies should consider having a wide range of expertise within the joint investigation team or task force. Ergo, each agency should consider appointing or seconding an expert in its core area.
- To the extent possible, the joint investigation team should:
 - Include individuals with the expertise necessary to analyse significant volumes of financial, banking, business and accounting documents, including wire transfers, financial statements and tax or customs records;
 - Include investigators with experience in gathering business and financial intelligence, identifying complex illegal schemes, following the money trail and using such investigative techniques as undercover operations, intercepting communications, accessing computer systems, and controlled delivery; and
 - Include criminal investigators who have the necessary knowledge and experience in effectively using traditional investigative techniques.
- Where the joint investigation team or task force does not have in-house expertise, it should consider hiring experts even from the private sector.

3.3.2.4. Coordination

3.3.2.4.1. Management structure

- The joint investigation team should have in place a management structure that has representation from each participating agency to provide direction and oversight over the teams activities.
- The team should consider having a secretariat that manages the day-to-day affairs of the team.

3.3.2.4.2. Ground rules

- Efficient and effective coordination between members of the joint investigation team, as well as across all agencies involved, is important to ensure that the teams do not work at cross purposes.
- It is therefore important to establish a clear set of rules (ground rules) for collaboration. This may be in the form of a memorandum of understanding signed by all agencies and setting out, in clear terms, the objective of the team and operational guidelines and other thorny issues such as confidentiality.

3.3.2.4.3. Privacy and confidentiality

- The right to privacy is protected by law in all countries. Coupled with confidentiality requirements, this can have an impact on the output of the team.
- It is therefore imperative to delimit the privacy and confidentiality requirements imposed upon each participating agency, their limitation and impact on investigation and afterwards develop a roadmap for exchange of information that will not prejudice these requirements.

3.3.2.4.4. Information sharing and confidentiality

- The failure of agencies or departments to link information/intelligence often plagues complex investigations. It is important that a proper mechanism for exchange of information be established for seamless coordination.
- To promote information sharing, the joint investigation team should consider:
 - Developing policies and procedures that promote information sharing within the framework of the joint investigation to promote the strategic sharing and dissemination of the necessary information.
 - Establishing written agreements such as a Memorandum of Understanding or similar agreements to formalise information sharing.
 - Setting up an information sharing system. Particular attention should be paid to facilitating awareness about previous or on-going investigations made on the same persons and/or legal entities so as to avoid replication; and promoting cross-fertilisation.
 - Putting in place appropriate safeguards for the dissemination and use of confidential information.

3.3.2.4.5. Investigation strategy

- There should be clear guidelines or consensus on the cases to pursue for investigation. Indicators could include the amounts involved, suspects, industry etc.

3.3.2.4.6. Prosecution strategy

- Ideally, the investigation should result in prosecution. The team therefore need to develop a prosecution strategy. This will render guidance on the violations to pursue whether tax crimes, money laundering, corruption, bribery so as to focus on the most viable charges with the best chance of success.

3.3.2.4.7. Dispute resolution

- There should be in place a dispute management system to enable the team resolve inter-agency disputes in the best interest of the investigation.

3.3.2.5. *Cross border investigations*

- For cross border cases there are additional issues to consider. These may include:
 - Identifying the arrangements between countries and between institutions within those countries.
 - Identifying the appropriate legal arrangements that provide for and govern cross border information sharing, extradition of suspects, identification of assets, freezing and recovery of assets etc. to enable the investigation to be conducted within appropriate legal framework.
 - Determining the accessibility and availability of records, witnesses, testimony especially from other jurisdictions.

3.3.2.6. *Conclusion*

The whole-of-government approach to combating financial crime involves recognising that the activities of separate agencies do not operate in isolation. Officials in agencies including the tax administration, the customs administration, the Financial Intelligence Units, the police and specialised criminal law enforcement agencies, the public prosecutor's office, and financial regulators recognise that the knowledge and skills required to combat financial crime are often

spread across each of these agencies. Thus, there is a need to collaborate and coordinate activities, for example through joint investigations, for each agency to meet individual objectives and for the country to realise its overall objectives.

3.3.2.7. Additional Recommended Materials

OECD (2015) *Improving Co-operation between Tax and Anti-Money Laundering Authorities: Access by Tax Administrations to Information Held by Financial Intelligence Units for Criminal and Civil Purposes*, OECD Publishing, Paris

OECD (2012a), *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes*, OECD Publishing, Paris

OECD (2012b), *International Co-operation against Tax Crimes and Other Financial Crimes: A Catalogue of the Main Instruments*, OECD Publishing, Paris.

OECD (2009), *Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors*, OECD Publishing, Paris

FATF/OECD (2012), *Operational Issues Financial Investigations Guidance*

United Nations *Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*, Vienna, September 2004

World Bank, *Use of Anti-Money Laundering Tools to Combat Corruption: Module 3 - Enhancing Inter Agency Domestic and International Cooperation in Corruption Cases*

World Bank, *Use of Anti-Money Laundering Tools to Combat Corruption: Module 4 - Planning Investigations: Corruption and Money Laundering*

3.4. ANNEXES TO PART I

3.4.1. Annex 1: Memorandum of Understanding Template 1

MEMORANDUM OF UNDERSTANDING

BETWEEN

AND

**CONCERNING COOPERATION IN THE EXCHANGE OF INFORMATION RELATED TO COMBATING
MONEY LAUNDERING, TERRORIST FINANCING, PROLIFERATION OF WEAPONS OF MASS
DESTRUCTION AND RELATED CRIMINAL ACTIVITY**

THIS MEMORANDUM OF UNDERSTANDING is made on _____ (date) between _____ (name of an agency) of _____ (country) and _____ (name of an agency) of _____ (country) (hereinafter collectively referred to as “**the Authorities**”)

WHEREAS THE AUTHORITIES MAKE THIS MEMORANDUM ON THE desire, on the basis of reciprocity and in a spirit of co-operation and mutual interest, and within the framework of each Authority’s national legislation, to facilitate the exchange of information in support of intelligence gathering on matters related to money laundering, terrorist financing, proliferation of weapons of mass destruction (where applicable) and related criminal activity

AND WHEREAS THE AUTHORITIES MAKE THIS MEMORANDUM with the aim of addressing both the national and international concerns over the extent of money laundering and terrorism financing, proliferation of weapons of mass destruction and related criminal activities, knowing the extent to which money laundering and terrorism financing undermine the rule of law, democracy and good governance,

AND WHEREAS THE PURPOSE OF THIS MEMORANDUM is to develop and expand the horizon of cooperation between the Authorities and to create a mutually beneficial relationship that will assist each authority in the performance of their respective roles in ensuring effective discharge of their respective obligations.

AND WHEREAS THE _____ (name of the agency) (hereinafter referred to as the **Agency 1**) is an entity established under the law _____ (insert the name of the law) (**hereinafter referred to as “THE LAW 1”**) responsible for _____.

AND WHEREAS THE AGENCY 1 MAKES this Memorandum within the spirit and intendment of _____ (provide the legal basis to signing the MoU).

AND WHEREAS _____ (name of the agency) (hereinafter referred to as **the Agency 2**) is an entity established under insert the name of the law) (**hereinafter referred to as “THE LAW 2”**) responsible for _____.

AND WHEREAS THE Agency 2 MAKES this Memorandum within the spirit and intendment of the LAW 2.

1. AND WHEREAS THE AUTHORITIES HEREBY AGREE AS FOLLOWS:

1.01. That this Memorandum shall be the framework whereby the authorities, to the extent allowed by the municipal laws of their respective countries, codes of conduct, policies and procedures of their respective institutions, disseminate to each other information relevant to their responsibilities being related to tracking, investigating and prosecuting (*adjust depending on the scope of responsibility of agencies signing the Memorandum*) tax evasion, trade misinvoicing, money laundering, financing of terrorism, proliferation of weapon of mass destruction (where applicable) and related unlawful activities either spontaneously or on request directed by a party requiring the

information (hereinafter referred to as “**THE REQUESTING AUTHORITY**”) to a party who has possession or control of the required information (hereinafter referred to as “**THE REQUESTED AUTHORITY**”)

1.02. That the Authorities in the spirit of co-operation assemble, develop and analyse information in their possession concerning financial transactions suspected of being related to money laundering, terrorist financing, proliferation of weapons of mass destruction or related unlawful activity.

1.03. That to the extent permitted by the laws of their respective countries and consistent with their policies and procedures, each Authority shall provide upon request from the other, and may do so spontaneously, any available information that may be relevant to their responsibilities being related to tracking, investigating and prosecuting (adjust depending on the scope of responsibility of agencies signing the Memorandum) tax evasion, trade misinvoicing, money laundering, financing of terrorism, proliferation of weapon of mass destruction (where applicable) related criminal activity in compliance with the terms of this Memorandum

1.04. That where a requesting authority shall require information relevant to their responsibilities being related to tracking, investigating and prosecuting (adjust depending on the scope of responsibility of agencies signing the Memorandum) tax evasion, trade misinvoicing, money laundering, financing of terrorism, proliferation of weapon of mass destruction (where applicable) or offences predicate thereto the REQUESTING AUTHORITY shall forward to the REQUESTED AUTHORITY a request stating the set of information required, the purpose for which the information is required and any further particulars that may be relevant to the timely and efficient response to the request within the spirit and intendment of this Memorandum.

1.05. That without prejudice to **Clauses 1.03 and 1.04** a request under this Memorandum shall be in writing, dated and signed by or on behalf of the Authority making the request.

1.06. That a request contemplated by **Clauses 1.03, 1.04 and 1.05** of this Memorandum must

- a. confirm the gathering of intelligence on, investigation or prosecution being carried out in respect of suspected unlawful activity, tax evasion, trade misinvoicing, money laundering offence, financing of terrorism offence, proliferation of weapon of mass destruction (where applicable) or any activity incidental or ancillary thereto or the conviction of a person or entity of unlawful activity, money laundering or financing of terrorism offence, proliferation of weapons of mass destruction (where applicable) contemplated by this paragraph;
- b. state the grounds on which any person or entity is being investigated, prosecuted or convicted of an unlawful activity, tax evasion, trade misinvoicing, money laundering or financing of terrorism offence, proliferation of weapons of mass destruction (where applicable) and give details of the conviction or any process triggered against the person or entity contemplated hereby;
- c. give particulars sufficient to identify the person or entity against whom an investigation, prosecution, conviction or any process contemplated hereby has been triggered;

- d. give particulars sufficient to identify any reporting entity or other person believed to have information, documents or material of assistance to the investigation, prosecution or any process hereunder that has been triggered;
- e. request the competent authority to whom the request is addressed to obtain from any person or entity contemplated paragraph (d) all or any information, documents or material of assistance to the investigation or prosecution referred to in paragraph (a);
- f. specify the manner in which and to whom any information, documents or materials obtained, pursuant to the request is to be produced;
- g. contain any other information or particulars as may assist the execution of the request.

1.07. That without prejudice to **Clause 1.06** a requesting authority must give a preamble stating to the extent possible the brief facts underlying the process that triggered the request.

1.08. That without prejudice to **Clauses 1.06 and 1.07** a requesting authority must be clear and specific about the information or set of information requested.

1.09. That an Authority upon having at their disposal or in their possession any information of suspicious transaction or any activity or conduct that can be connected to tax evasion, trade misinvoicing, money laundering, terrorism financing, proliferation of weapons of mass destruction or any conduct whatsoever incidental or ancillary to money laundering or terrorism financing, proliferation of weapons of mass destruction (hereinafter referred to as “**THE CO-OPERATING AUTHORITY**”) may on their own motion forward to the other Authority (hereinafter referred to as “**THE INFORMED AUTHORITY**”) for whom the information may be reasonably necessary for intelligence gathering covered by this Memorandum without the need for a formal request being issued.

1.10. That an Authority upon receipt of information under this Memorandum shall within 2 working weeks or so soon thereafter forward in writing to either THE REQUESTED AUTHORITY under **Clause 1.01** or the CO-OPERATING AUTHORITY under **Clause 1.09** an acknowledgement of receipt thereof.

1.11. That an Authority receiving information either under **Clause 1.01 or Clause 1.09** shall update THE REQUESTED AUTHORITY under **Clause 1.01** or the CO-OPERATING AUTHORITY under **Clause 1.09** on progress made in the investigation or any process triggered by the information collected.

1.12. That a REQUESTED AUTHORITY may within seven (7) working days or so soon thereafter upon receipt of the request forward in writing a notice to the Requesting Authority acknowledging receipt thereof stating its decision to execute the request or refusal to do so.

Provided that where the REQUESTED AUTHORITY shall indicate a decision to execute a request, they shall indicate in their response, a time line within which they intend to complete the execution of the request.

1.13. That where a REQUESTED AUTHORITY shall indicate in their response, a refusal to execute the request received under **Clause 1.02**, they shall indicate the reasons for refusing to execute the request.

2. THE AUTHORITIES FURTHER HEREBY AGREE

2.01. That any information or documents obtained under the terms of this Memorandum shall be treated as strictly confidential

2.02. That without prejudice to **Clause 2.01**, information or documents obtained from the respective Authorities under the terms of this Memorandum shall be used only for conduction of activities intelligence purposes and shall not be disclosed or disseminated to any third party, nor be used as evidence in any court proceedings without the prior written consent of the Requested Authority.

2.03. That without prejudice to **Clauses 2.01 and 2.02**, where the information obtained under this Memorandum is sought to be disclosed to a third party, the Requesting Authority shall, before making such disclosure, obtain the prior written consent of the Requested Authority for the disclosure.

Provided that the request to the Requested Authority, shall, among others, state the third party to whom the information is sought to be disclosed, the basis for the request for disclosure and the purpose that will be served by the disclosure.

2.04. That without prejudice to **Clauses 2.01 and 2.02** the Authorities shall not permit the use or release of any information or document obtained under this Memorandum for any purposes other than those stated in this Memorandum without the prior written consent of the Requested Authority.

2.05. That without prejudice to **Clauses 2.01 and 2.02** the Requested Authority may not disclose information contained in the request to any party not identified in the request without the prior consent of the Requesting Authority.

Provided that, nothing in this Memorandum shall bar the Requested Authority from transmitting to other appropriate agencies of the Requested Authority's government.

2.06 That without prejudice to **Clauses 2.01, 2.02, 2.03, 2.04 and 2.05** where an Authority shall be subject to legal processes or proceedings that could require the disclosure of information it has received from the other Authority, the Authority subject to such process or proceedings will immediately notify the other Authority and seek their consent accordingly.

2.07. That without prejudice to **Clauses 2.01, 2.02, 2.03, 2.04, 2.05 and 2.06** in the event that the other Authority shall consent to the disclosure of its information as required by this Memorandum the Authority subject to the legal process or proceedings shall make reasonable efforts to ensure that the information is not disseminated to any third party or that appropriate limitations are placed upon the disclosure.

2.08. That any consent contemplated by **Clauses 2.06 and 2.07** shall not be withheld unreasonably.

3. THE AUTHORITIES ALSO HEREBY EXPRESSLY AGREE

3.01. That without prejudice to **Clause 6.01** and to the extent possible, all requests for information, and responses to requests for information, exchange notices, and consents provided pursuant to this Memorandum shall be reduced to writing.

Provided that in the case of urgency, it shall be sufficient that requests duly signed by the Requesting Authority are emailed to the Requested Authority.

3.02. That all Communications between the Authorities under this Memorandum shall take place in English Language.

3.03. That any correspondence made or notices sent, to be sent or required to be made under this Memorandum to the Agency 1 shall be in writing, signed by the Authority 2 giving such notice or making the correspondence and shall be delivered by secure email, secure facsimile transmission or by registered mail, _____ (*insert address*) or at such other address as the Agency 1 may subsequently notify.

3.04 That any correspondence made or notices sent, to be sent or required to be made under this Memorandum to the Agency 2 shall be in writing, signed by the Authority 1 giving such notice or making the correspondence and shall be delivered by secure email, secure facsimile transmission or by registered mail to _____ (*insert address*) or at such other address as the Agency 2 may subsequently notify.

3.05. That a requested Authority under this Memorandum shall be under no obligation to execute a request if they determine that

(a) the action sought by the request is contrary to a provision of the National Constitution of the requested State,

(b) the execution of the request is likely to prejudice the sovereignty, security, national interest or other essential interests of the requested State,

(c) the release of the information requested may unduly prejudice an investigation or proceeding in the country of the requested Authority, or if judicial proceedings have already been initiated concerning the same facts as the request is related to;

(c) under the law of the requesting State, the grounds for refusing to comply with a request from another State are substantially different from paragraph (a) or (b).

3.06. That this Memorandum shall not create any binding legal obligations upon the Authorities.

3.07. That the Authorities undertake to implement this Memorandum based upon a foundation of mutual trust, equality and for each other's mutual benefit.

3.08. That this Memorandum is hereby entered into on a non-exclusive basis and shall not preclude the Authorities from entering into similar Memoranda or arrangements with other authorities.

3.09. That this Memorandum shall not affect any arrangements under any other Memorandum that either Authority has entered into.

3.10. That through the mechanism established by this Memorandum, the Authorities agree to promote mutual assistance and to facilitate the exchange of information in order to enable the Authorities to effectively perform their respective duties.

3.11. That to facilitate smooth communication and to ensure continuity in the co-operation between the Authorities the Agency 1 hereby designates _____ as the contact person and _____ as the alternate contact person.

3.12. That to facilitate smooth communication and to ensure continuity in the co-operation between the Agency 2 hereby designates _____ as the contact person and the _____ as the alternate contact person.

3.13. That without prejudice to **Clauses 3.11 and 3.12** either Authority shall have the discretion to vary the contact or alternate contact person, or appoint other or additional alternate contact persons.

4. THE AUTHORITIES FURTHER HEREBY EXPRESSLY AGREE

4.01 That the Authorities shall be at liberty to review or amend this Memorandum in compliance with the provisions thereof

Provided that an Authority proposing an amendment or review shall communicate to the other Authority in writing their intention to review or amend stating the reasons for the amendment or review and giving sufficient details of the proposed review or amendment.

4.02 That an Authority upon receipt of the notice given under **Clause 4.01 shall** within 2 clear weeks or so soon thereafter forward a response thereto in writing stating their decision to accede to the proposed review or amendment or their refusal to do so.

4.03. That were an Authority shall indicate in their response to a notice contemplated by **Clauses 4.01 and 4.02** a decision to accede to the proposed amendment or review the proposed amendment or review shall take effective immediately upon receipt thereof.

4.04. That were an Authority shall in their response to a notice contemplated by **Clauses 4.01 and 4.02** send a refusal to accede to the proposed amendment or review the proposed amendment or review shall be deemed to have been set aside immediately upon receipt thereof.

Provided that nothing in this clause shall preclude the authorities from further negotiations with respect to the proposed amendment or review hereby set aside.

4.05. That any amendment or review agreed upon under this Memorandum shall be reduced to writing and duly signed by authorised representatives of the respective Authorities.

4.06. That any amendment or review executed under **Clause 4.05** shall form an inseparable part of this Memorandum.

4.07. That this Memorandum shall become operational on the date it shall be executed by the Authorities and shall remain in force until it is terminated by the Authorities.

4.08. That, without prejudice to **Clause 4.06**, an authority shall be at liberty to terminate this Memorandum at any time after execution thereof.

Provided that an Authority desirous of terminating this Memorandum shall notify the other authority in writing of their decision to terminate stating reasons therefor in compliance the terms of this Memorandum

4.09. That an authority upon receipt of notice under **Clause 4.08** of this Memorandum shall within seven (7) working days or so soon thereafter acknowledge in writing receipt thereof.

4.10. That where a terminating Authority shall receive an acknowledgement of receipt of notice issued in compliance with **Clause 4.09** of this Memorandum, the Memorandum shall be deemed to have been terminated two clear weeks thereafter.

Provided that nothing in this Clause shall preclude the authorities from further negotiations with respect to the notice of termination contemplated hereby.

4.11. That without prejudice to **Clauses 4.08, 4.09 and 4.10** where this Memorandum shall be terminated in compliance therewith the terms and conditions of this Memorandum dealing with the confidentiality of information received prior to the termination of this Memorandum shall remain in force after the termination of this Memorandum.

5. THE AUTHORITIES IN THE SPIRIT OF CONTINUED COLLABORATION HEREBY EXPRESSLY AGREE

5.01. That the authorities shall work in the spirit of openness, transparency and consultation to achieve the objectives of this Memorandum.

5.02. That in the event of any disagreement, controversy or dispute arising under this Memorandum, the parties hereto shall endeavour to settle such dispute amicably through dialogue and consultation.

IN WITNESS WHEREOF THE AUTHORITIES HAVE HEREONTO SET THEIR HANDS AND SEALS THIS DAY AND YEAR FIRST- ABOVE- WRITTEN

Signed in _____ on _____, in the English language,

_____ on _____,

(this English text being the agreed authentic text, and each party taking the responsibility for establishing translation in their own language).

For the Agency 1 For the Agency 2

.....

.....

Witness Witness

APPENDIX

GLOSSARY OF WORDS AS USED IN THIS MEMORANDUM OF UNDERSTANDING

For the purposes of this Memorandum of Understanding except otherwise expressly provided the following words, phrases and expression shall bear the meanings expressly attached to them hereby:

- a) “Amending this Memorandum”** shall mean altering the content of this Memorandum by the variation of one or more but not all of the terms of this agreement.
- b) “Financial Transactions”** shall include but not limited to all activities involving, connected with, and related to the transfer, safekeeping, retrieval, carrying either physically, electronically or otherwise money or money’s worth either in Kwacha, Leones or other currency. For the purpose of this agreement it matters not whether the property involved is in the State of the Authorities or elsewhere.
- c) “Reviewing this Memorandum” shall mean** overhauling the entire agreement in contemplation of a new document that may eventually bind the parties.
- d) “Terminating this Memorandum “shall mean** that a party to this agreement takes certain steps to cease to be bound by the terms of this agreement.
- e) “The Authorities” shall** mean the signatories to this Memorandum of understanding.
- f) “The Co-operating Authority” shall mean** a party to this Memorandum of Understanding who spontaneously forwards to party information which the co-operating authority deems reasonably relevant for the gathering of intelligence on suspicious transactions connected in whatever way to money laundering, financing of terrorism, proliferation of weapons of mass destruction or other act or conduct incidental or ancillary thereto.
- g) “The Informed Authority” shall mean** a party to this Memorandum of Understanding who spontaneously receives information from another party which the co-operating Authority deems

reasonably relevant to the gathering of intelligence on suspicious financial transactions connected in whatever way with money laundering, financing terrorism, proliferation of weapons of mass destruction or other act or conduct incidental or ancillary thereto.

h) “The Requesting Authority” shall mean a party to this Memorandum of Understanding who requests for information at the disposal, in the possession or under the control of another party which the requesting party deems to be reasonably relevant to the gathering of intelligence on suspected financial transactions connected in whatever way, with money laundering, financing of terrorism, proliferation of weapons of mass destruction or other act or conduct incidental or ancillary thereto

i) “The Requested Authority” shall mean a party to this Memorandum of Understanding who receives from another party a request for information relevant to the gathering of Intelligence on suspicious Financial Transactions connected in whatever way to money laundering, Financing of Terrorism, proliferation of weapons of mass destruction or other acts or conduct incidental or ancillary thereto.

j) “This Memorandum” shall mean this Memorandum of Understanding.

Signed in _____ on _____, in the English language,
 _____ on _____,

(this English text being the agreed authentic text, and each party taking the responsibility for establishing translation in their own language).

For the Agency 1

For the Agency 2

.....

.....

Witness

Witness

3.4.2. Annex 2: Memorandum of Understanding Template 2

MEMORANDUM OF UNDERSTANDING BETWEEN

XXXXXXXXXXXXXXXXXX

XXXXXX, XXXXXX

AND

XXXXXX XXXXXXXXXXXXXXX XXXXXXXXXXXXX

XXXXXX, XXXXXX

REGARDING COLLABORATION, MUTUAL ASSISTANCE, EXCHANGE OF NON-TAXPAYER INFORMATION IN SUPPORT OF THEIR FRAUD PREVENTION AND LAW ENFORCEMENT MISSIONS.

Recognizing the need for continued international cooperation in matters related to targeting and disrupting transnational crime and criminal organizations;

Convinced that fraudulent and criminal activities in the XXXXX XXXX are detrimental to the economic, fiscal, and social interests of their respective countries;

Wishing to develop and strengthen practical co-operation in matters of mutual interest, in particular in the fight against fraud and criminal activities in the digital environment;

Convinced that efforts to prevent fraud and to investigate criminal activity would be made more effective by close co-operation and information sharing

Mindful of the sensitive nature of taxpayer's data;

Having regard to the XX Convention between the government of the XXXX XXX of XXXXX XXXXX and XXXXX XXXXX and the government of XXXXXXX XXXXX for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, as amended in the XXXXX;

Also Having regard to the XXXX Convention on Mutual Administrative Assistance in Tax Matters.

XXXXX XXXXXXX (XXXX) and the XXXXX XXXXX, XXXX XXXX (XXXX) (collectively the "Participants") intend to collaborate, provide mutual assistance, and share Non-Taxpayer Information in support of their fraud prevention and law enforcement missions.

I. SCOPE

Under this Memorandum of Understanding (MOU), the Participants intend to cooperate to prevent the exploitation of their respective tax systems from the digital environment. To accomplish this, the Participants intend to share Non-Taxpayer Information regarding Best Practices and Strategic Trends.

The MOU represents an understanding and cooperative arrangement between the Participants and does not constitute a legally binding agreement. All activities of each Participant under this MOU will be carried out in accordance with each Participants' respective laws and policies and any applicable international agreements to which the Participants' government is party. This MOU is not intended to create or confer any rights, privileges, or benefits upon any person, party, third party or entity, private or public.

II. DEFINITIONS

"Non-Taxpayer Information" means any data, whether or not processed and analyzed; and documents, reports, and other communications in any format, including electronic, certified, or

authenticated copies thereof. In this MOU, Non-Taxpayer Information does not include taxpayer specific information exchanged between Competent Authorities under any international exchange of tax information agreement, including the Convention Between the Government of the XXXX XXXX XXXX, XXXXX, and the Government of the XXXX XXXXXX for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains.

"Best Practices" means any information and knowledge related to commercial or professional procedures and techniques used within the scope of the Participant's duties as provided by law.

"Strategic Trends" means any information and knowledge related to activities in the criminal or business landscape, including details of criminal *modus operandi*, threat landscapes and technical developments within the business and criminal spheres.

III. INFORMATION SHARING/CHANNEL OF COMMUNICATION

All information and knowledge shared pursuant to this MOU will be held in confidence by all Participants and used solely for the fraud prevention or law enforcement purpose for which it is provided and in accordance with any applicable laws, regulations, policies, or other governing directives of the Participants.

The Participants will keep information confidential in the same manner as under Article 22 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters unless otherwise stated by the Participants when the information is exchanged. Where requested, the Participant receiving the information or knowledge under this MOU will obtain approval, in writing, from the Participant providing information before such information or knowledge is disclosed beyond the Participants.

Information relating to all matters under this MOU will only be disclosed to officials designated by the Participants. In principle, officials authorized to represent the Participants in conferences, symposia, discussions or other venues in which matters under this MOU are shared shall be deemed designated officials for that purpose.

Urgent requests may be made via official telecommunication channels, but will, if so requested, be confirmed in writing through the officials designated by the Participants.

IV. INTERACTION WITH INTERNATIONAL EXCHANGE OF INFORMATION TREATIES AND AGREEMENTS

Nothing within the terms of this Arrangement authorizes the Participants to act as Competent Authority or Central Authority under income tax treaties, tax information exchange agreements, mutual legal assistance treaties, or any other international agreement involving the exchange of tax information or criminal judicial assistance to which their respective governments are a party. Pursuant to those treaties and agreements, Participants will refer all issues and cases relating to the disclosure of tax return and return information to their respective Competent Authority or Central Authority.

V. FUNDING

This MOU does not obligate any Participant to appropriate, expend, or transfer any funds to the other Participant, or to any other party.

Each Participant is responsible for its own costs incurred in furtherance of this MOU, subject to the availability of appropriated funds, relevant laws, and other legal authorities applicable thereto.

VI. COMMENCEMENT/MODIFICATION/DISCONTINUANCE

Activities under this MOU are intended to commence upon signature of this MOU by all Participants.

This MOU may be modified by mutual written amendment by the Participants. Modifications will be effective upon signature by all Participants. Implementation of modifications will occur as agreed to pursuant to the terms of the modification.

Any Participant may unilaterally discontinue its participation under this MOU by providing written notice to the other Participants; however the discontinuing Participant should provide at least 90 days advance written notice of discontinuance to the other Participants.

VII. POINTS OF CONTACT

In principle the post holders designated by the Participants are:

For the XXXXX XXXX;

Any Director within the XXXXX, XXX, XXX, and XXXX, XXXX, XXXXX.

For XXXX, XXXXX, XXX;

Any Director within the XXXXX, XXX, and XXX.

Agreed at XXXXXXXX, XXXXX

On behalf of XXXXXXXX XXXXXX of the XXXXXXXX XXXXX

Title

Date

On behalf of the XXXXXXXX XXXXX of the XXXXXXXX XXXXXXX

Title

Date

4. PART II: TOPICS COVERED IN 2017 WORKSHOPS

4.1. Beneficial Ownership

4.1.1. Introduction

4.1.1.1. The Importance of Beneficial Ownership Information in Detecting, Tracking and Preventing Money Laundering, Corruption and Tax Evasion

- A strong and clear definition of beneficial ownership assists relevant stakeholders, such as competent authorities or entities with reporting obligations, to understand the scope of their duties. Weak definitions lead to weaknesses in the regulatory and enforcement framework, and to uncertainty in the duties and obligations of reporting entities.
- Information about the natural person who is in control of a corporate vehicle is essential to any large-scale corruption investigation, and indeed, to almost any large-scale organized-crime investigation.
- Collecting, sharing, and disclosing information on the ultimate beneficial owners behind secret ownership structures can help to deter such practices and enable their detection by enabling authorities to more effectively and efficiently “follow the money”. These structures enable people to transfer the illicit proceeds of crime, evade tax payments or aid aggressive tax avoidance, and foster corruption by hiding improper relationships with government officials. Parties involved in targeted transactions often cannot be identified without access to accurate and reliable information because of the lack of transparency in legal structures and arrangements.
- Private sector: information on beneficial ownership offers clarity around the people with whom they are doing business; enables informed decisions about potential deals or transactions; and makes it easier to manage legal, reputational, political, operational, and regulatory risks.
- Public sector: access to this information removes the “veil of secrecy”, allowing the identification of bad actors.
 - Law enforcement can better “follow the money” in financial investigations, and assist in locating assets for recovery.
 - Tax authorities can more accurately verify compliance.
 - Securities regulators can investigate market manipulation, unlawful insider trading, and fraud, and uncover cases of corporate self-dealing.

4.1.2. Best Practices

4.1.2.1. How to Use Beneficial Ownership Data to Detect, Track and Prevent Money laundering, Corruption and Tax Evasion

4.1.2.1.1. Round tripping

Revealing beneficial ownership would help to stem future outflows of tax evaded revenues from developing countries, and also could help to bring back some of the money that has been lost over previous decades. Secrecy of ownership makes “round tripping”—a major means of evading tax in developing countries—possible. This process involves sending money out of your country, then disguising your identity to pose as a foreign investor and bringing the money back to your country, receiving the tax breaks that are designed to attract foreign direct investment.

4.1.2.1.2. More effective identification of ‘structuring’ offences

Beneficial ownership information can be used to more effectively identify ‘structuring’ offences committed when transactions are made “by or on behalf of” the same person. ‘Structuring’ is the act of splitting up what would otherwise be a large financial transaction into a series of smaller transactions to avoid scrutiny by regulators or law enforcement; it is a criminal offence in nearly all jurisdictions.

4.1.2.1.3. Enhanced sanctions screening and compliance

Beneficial ownership information can be used to help regulated entities ensure that they do not open or maintain an account, or otherwise engage in prohibited transactions or dealings involving individuals or entities subject to sanctions under UNSCR 1267 or 1373, or by the Office of Foreign Assets Control (OFAC).

4.1.2.1.4. Real estate transparency

Buying property through anonymous companies registered offshore is an ideal way to legitimise money earned through corrupt means. Real estate agents and those in the property market can avoid involvement in or facilitation of corruption or crime by understanding who they are selling to or buying from.

4.1.2.2. Identifying and Accessing Information on the Ultimate Beneficial Owners

1. Established regulations requiring legal ownership;
 - Establishing legally required declarations of beneficial ownership by all entities;
 - Extending the use of Tax Identification Numbers (TIN) for individuals and corporations;
 - BO information required from all regulated entities including professional service providers/lawyers. Supervisors enforcing CDD incl. quality of BO information;
 - Trustees required to declare status to financial institutions. Tax authorities holding trust information. Or trusts required to register;
 - Harmonisation of thresholds for determining ownership. Where jurisdictions seek to rely on the ‘threshold’ approach to determine a direct or indirect ownership interest, the threshold should be set no higher than 10% in order to promote consistency between AML/CFT compliance requirements and FATCA reporting obligations. While such an amendment would impose additional due diligence burdens on reporting entities, these would be largely offset through greater compliance efficiencies.
 - Utilise a ‘Shared Utility’ model. Rather than each financial institution undertaking its own CDD procedures and compiling its own documentation, in a Shared Utility model they participate collectively in a service provided by a third party, paying only for the services and data they use. Customer information is kept in a single repository, which can then be accessed and shared among participating financial institutions, either locally or globally, depending on the registry model. Shared Utility models can be based on industry (e.g. SWIFT’s KYC Registry, which is focused on correspondent banking partners), or jurisdiction (e.g. the newly-implemented Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI), which functions as a central KYC records registry for all domestic reporting entities).
 - Implement mechanisms to ensure policy coherence. Developing and implementing coherent policies to respond to the threats posed by illicit financial flows need to involve all competent authorities—including operational agencies—in order to resolve competing priorities and avoid unexpected or unintended consequences before they arise. Jurisdictions should ensure that the

necessary laws and mechanisms are in place to allow officials from different agencies to share information.

- Place limitations on corporate fiduciaries. As seen with investigations into the Panama Papers and recent reports from the Canadian Broadcasting Corporation/Toronto Star, a single agent may represent hundreds if not thousands or tens of thousands of corporations in a nominee capacity. In many countries, there are no limits to the number of positions that a person may hold, and it is common for these people to hold no real connection to or with the operations or ownership of the company. In order to ensure the proper fulfilment of fiduciary obligations, jurisdictions should consider placing limits on the number of ostensible management positions able to be held by one person.
- Ensure that adequate protections are in place for whistleblowers. Jurisdictions should ensure that strong whistleblower protections are in place for public and private employees in regulated sectors. The recent data leaks have not only revealed tax avoidance and tax evasion on a massive scale, but have also exposed the identities of beneficial owners of thousands of shell companies, foundations, and trusts set up through thousands of intermediaries all over the world to evade taxes, launder money, and hide wealth. These disclosures should be encouraged and protected in all cases where the public interest is at stake.

4.1.2.2.1. National registries

- Establish well resourced and preferably open registers containing verified information, which ideally could be linked on global or at least regional level;
- Analyze the experience of countries registering immovable property;
- Open up better exchange of information between financial intelligence units and tax administrations;
- Identify the potential for the use of blockchain technology on registers of immovable property;
- Easy access to BO information by law enforcement (and regulated entities at times) via notaries computerized system, or from regulated entities (e.g., based on account database to locate and cross-checked with other governmental sources/registries);
- Establish or enhance public central registries of beneficial ownership information. Central registers enable companies to know with whom they are doing business, financial institutions to know whom their customers are, citizens to see who benefits from public funds, and law enforcement and other competent authorities to prevent abuses of secrecy and hold individuals to account for crime and corruption. However, registers are only as good as the information they contain. By opening registers up to public scrutiny, civil society and the media are also able to participate in verifying the adequacy of the information provided.

4.1.2.2.2. Reinforcing legal obligations on service providers

- Strengthening obligations on service providers, legal and professional bodies in order to ensure an access for financial intelligence units and tax administrations;
- Strengthening sanctions entities which are for not respecting or meeting the standards and regulating sanctions for service providers;
- Stricter liability for service providers and intermediaries, i.e. the ‘gatekeepers’. The recent Panama Papers leaks have placed a spotlight on the roles played by those professional intermediaries dubbed ‘gatekeepers’—lawyers, notaries, accountants, tax advisors, and trust and service company providers—in hiding illicit funds in secrecy jurisdictions. Though required to report

illicit activities under the FATF Standards, gatekeepers often abuse their positions to hide the commission or proceeds of crime under the veil of professional privilege.

- Unlike financial institutions, these professions are largely self-regulating through their professional associations, and misconduct and misbehaviour is largely a civil as opposed to a criminal matter. Jurisdictions should give consideration to implementation of stricter legal and/or regulatory responses aimed at these professions and the responsible individuals within them, such as those imposed in the United Kingdom

4.1.2.3. Alternative Approaches to Getting Better Access to Beneficial Ownership

- Participate or Develop Regional and International Working Groups.
- Domestic Task Forces.
- Establish Relationships with Proactive NGOs (e.g. Global Financial Integrity, Tax Justice Network, and Transparency International).
- Use Academia to research and address complex issues for policy decisions.

4.2. Improving Asset Tracing and Recovery Mechanisms: Effective Ways to Trace, Freeze, Confiscate and Return to their Country of Origin Funds that Have Been Obtained through Illegal Means

4.2.1. Introduction

Global efforts to fight illicit financial flows arising through bribery and corruption are underpinned by a number of international instruments, notably the United Nations Convention Against Corruption (UNCAC), which provided the first comprehensive international framework for the return of stolen assets, as well as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention), which requires that bribes and the proceeds of bribery be subject to seizure and confiscation. Both instruments place particular emphasis on the importance of international cooperation in both criminal and civil proceedings, including through mutual legal assistance (MLA) mechanisms.

The implementation of these instruments is strongly supported by the work of the Stolen Assets Recovery Initiative (StAR), which was established in 2007 as a partnership between the World Bank Group and the United Nations Office on Drugs and Crime (UNODC). StAR supports international efforts to end safe havens for corrupt funds by working with developing countries and financial centres to prevent the laundering of the proceeds of corruption and to facilitate a more systematic and timely return of stolen assets. Several initiatives are also being pursued at a regional level in Africa, in particular through the work of the Asset Recovery Inter-Agency Network for Eastern Africa (ARIN-EA), the Asset Recovery Inter-Agency Network for West Africa (ARINWA), and the Asset Recovery Inter-Agency Network for Southern Africa (ARIN-SA).

While the issue continues to command political attention at the highest levels, most recently through its inclusion in both the Sustainable Development Goals under Goal 16.4 and in the commitments under the Addis Ababa Action Agenda on Financing for Development, asset recovery initiatives continue to be hindered by delays, lags and capacity constraints, particularly within developing regions such as Africa. In its 2014 report 'Few and Far: The Hard Facts on Stolen Asset Recovery', the StAR acknowledged the existence of a huge gap between the results achieved from asset recovery initiatives, and the billions of dollars that are estimated stolen from developing countries. Only US\$147.2 million was returned by OECD members between 2010 and June 2012, and US\$276.3 million between 2006 and 2009, a fraction of the roughly \$50 billion estimated to have been stolen each year.

A significant body of research already exists on the issues and barriers relating to asset tracing and recovery, which will not be repeated in this manual. Instead, participants are encouraged to review and consider the extensive research and best-practice papers aimed at both practitioners and policymakers that have been published by the StAR and the International Centre for Asset Recovery (ICAR) 4, selected extracts of which are presented below, and which were used by the facilitators from these organizations at the training workshops organized under the Tax and Good Governance Project.

4.2.2. World Bank

- Reuter P (ed) (2012) Draining Development? Controlling Flows of Illicit Funds from Developing Countries. The World Bank Washington.
- Yikona S (et al) (2011) Ill-gotten Money and the Economy: Experiences from Malawi and Namibia World Bank Open Knowledge Repository. (Available at: <https://openknowledge.worldbank.org/handle/10986/2362>).

4.2.3. WORLD BANK- UNODC (STAR INITIATIVE)

- Brun, J.P., et al (2011), Asset Recovery Handbook: A Guide for Practitioners, StAR Initiative, World Bank and UNODC, Washington, US www.worldbank.org/finance/star_site/documents/arhandbook/ar_handbook_final.pdf
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- StAR (2009), Recovering Stolen Assets: Towards a Global Architecture for Asset Recovery, StAR Initiative, World Bank and UNODC, Washington, US www.worldbank.org/finance/star_site/documents/global_architecture/GlobalArchitectureFinalwithCover.pdf
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- OECD and the International Bank for Reconstruction and Development/The World Bank, (2011) Tracking Anti-Corruption and Asset Recovery Commitments (StAR), StAR Initiative, World Bank and UNODC, Washington, US www.worldbank.org/finance/star_site/documents/AccraReport/Report/Accra%20Commitments.pdf
- Van der Does de Willebois E (ed) et al (2011) The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It. The World Bank Washington.
- Politically Exposed Persons: Preventive Measures for the Banking Sector (2010) by Theodore S. Greenberg, Larissa Gray, Delphine Schantz, Carolin Gardner, and Michael Latham
- Public Office, Private Interests: Accountability through Income and Asset Disclosure (2012)
- On the Take: Criminalizing Illicit Enrichment to Fight Corruption (2012) by Lindy Muzila, Michelle Morales, Marianne Mathias, and Tammar Berger
- Left out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery (2014) by Jacinta Anyango Oduor, Francisca M. U. Fernando, Agustin Flah, Dorothee Gottwald, Jeanne M. Hauch, Marianne Mathias, Ji Won Park, and Oliver Stolpe.

Few and Far The Hard Facts on Stolen Asset Recovery, Larissa Gray, Kjetil Hansen, Pranvera Recica-Kirkbride, Linnea Mills, 2014

4.3. Using Tax Treaties Effectively to Deal with Abusive Tax Avoidance

4.3.1. Introduction

Traditionally, an extensive double tax treaty (DTT) network is considered to be an important tool for a developing country to attract foreign direct investment (FDI) and a signal for its willingness to impose taxes on foreign investors according to international accepted taxation norms. A broad network of DTTs is perceived as a sincere manifestation of a country's desire for economic development, greater integration into the global economy, and a confirmation to provide a predictable legal framework.

However, recent evidence appears to show that signing DTTs does not necessarily result in greater FDI and may even increase revenue losses, which is particularly detrimental to developing countries. The topic of abusive use of tax treaties and the negative repercussions on the tax base of developing countries has therefore received extensive attention from international organizations, policymakers, and non-governmental organizations (NGOs).

It has emerged from studies on this topic that there are certain measures or best practices that countries could follow to ensure that tax treaties they enter into do not serve such abusive purposes.

4.3.2. Best Practices

4.3.2.1. Develop a coherent and clear policy for entering into DTTs:

Such policy should stipulate a methodological framework to be used to review existing treaties and potential new ones. Beginning with the "worst" treaty in place, this review should ultimately result in the termination according to the terms of the treaty or renegotiation of those that are damaging.

The considerations deriving from the OECD's work result in the following questions to be considered before entering into DTTs or while reviewing those already existing:

- **Is there the risk of double taxation resulting from the interaction of both tax systems?** Thereby, countries should be aware that a substantial number of cases of residence-source juridical double taxation can be eliminated with domestic provisions (such as the exemption or credit method). However, other issues such as significant differences in the source rules of the two States or if the domestic law of these States does not allow for unilateral relief of economic double taxation (as in the cases of a transfer pricing adjustment made by one country), there must be further measures to address such economic double taxation.
- **Is there a significant level of existing or projected cross-border trade and investment between both countries?** To justify the conclusion of a DTT, there must be actual cross-border trade and investment occurring between both countries. With provisions such as protection from non-discrimination of foreign investment and the greater certainty of tax treatment through access to mutual agreement procedures, economic ties can be fostered between both contracting parties.
- **Does the other State levy no or low incomes taxes?** In the event that such question will be answered affirmatively, considerations should be made of whether the risk of double taxation justifies the conclusion of a tax treaty.

- **Does the other country's tax system have mechanisms established that could potentially increase the risk of non-taxation**, e.g., tax advantages that are ring-fenced from the domestic economy?
- **Is the potential treaty partner willing and able to effectively implement the provision regarding administrative assistance?** Since one main rationale of a tax treaty is the prevention of tax avoidance and evasion, countries should also consider whether their potential treaty partner is willing and able to effectively implement the provisions regarding administrative assistance, including the ability to exchange information and the ability and willingness of a country to provide assistance in the collection of taxes. Countries should recognize that the existence of such provisions alone should not be the reason for concluding DTTs since their existence can be achieved either through the conclusion of a more targeted agreement, e.g., Tax Information Exchange Agreements or by becoming a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.
- **Is there a risk of excessive taxation that may result from high withholding taxes?** Normally, mechanisms exist to ensure that withholding taxes do not result in double taxation. However, to the extent that the withholding tax levied at the source exceeds the amount of tax normally levied in profits in the residence country, the Action 6 report points out that this might have a detrimental effect on cross-border trade and investment. However, withholding taxes in the context of developing countries has often been identified as a simple and effective tool for fighting against BEPS (see Chapter IV).

Treaty termination might be the appropriate solution in instances when only one or a few treaties are affected, the treaty / these treaties is/are systematically abused, and the treaty jurisdiction facilitates or encourages the abuse. In these circumstances, countries should terminate the abusive treaty relationship since renegotiation may feasibly only prolong the period of abuse. Additionally, termination will send a strong message to taxpayers and countries that abuse will not be tolerated.

4.3.2.2. Be aware of the importance and various benefits of higher withholding tax rates and have a coherent policy in this regard in DTTs

When concluding DTTs, countries should be aware of the importance and various benefits of higher withholding tax rates as an ability to generate revenues with a clear policy approach in order to accommodate higher withholding taxes in a DTT. Additionally, consistency is key. Each and every treaty should be considered as "a potential treaty with the world" with the probability that investors will take advantage of the "worst" one. That is, the treaty that limits source country taxation in the most excessive degrees facilitates tax avoidance and establishes tax-treaty associations with jurisdictions with very low or even zero corporate income tax rates.

4.3.2.3. Domestic anti-abuse provisions mirrored in DTTs

Where countries do not apply the concept of treaty override, countries should commit to updating their tax treaties to include whatever domestic anti-abuse provision that they deem appropriate as a long-term exercise.

4.3.2.4. Becoming party to the MLI to efficiently incorporate the BEPS minimum standard into existing treaties and also the updated provisions on indirect transfer

Where a country with an existing treaty network is not already party to the MLI, which permits it to incorporate the minimum standard into its treaties through this instrument, consideration should be given to the use of the instrument to update its treaty network.

4.3.2.5. Creating a broad legal basis in domestic law for indirect transfers reflecting the 2017 changes to art. 13 (4) OECD

Tax treaties cannot create taxing rights. Hence, the domestic laws of countries must contain a legal basis for taxing indirect transfers. Where the domestic law provides for this, it is important for the provisions to be drafted as broad as possible and reflect the 2017 changes.

4.3.2.6. Implementing mechanisms to access information when indirect transfers occur

The conclusion of a Memorandum of Understanding with other tax administrations should be considered. The tax administration in the countries in which the transfer is transacted could agree to provide information on conspicuous transactions when it becomes aware of them. The legal basis of such “information exchange” can be found in DTTs, TIEA, and the Multilateral Administrative Assistance Convention.

Additionally, the countries could introduce an obligation to notify the sector ministry in the event of a substantial change in the underlying ownership of an entity. Such an obligation needs to be broad enough to also explicitly include “indirect” transfers. Additionally, it must be linked to further legislation ensuring that the revenue authority will receive the information to pursue any tax liability.

4.4. Additional Recommended Materials

4.4.1. G20 Sources

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4.4.2. OECD Sources

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- OECD (2011), Clarification of the Meaning of “Beneficial Ownership” in the OECD Model Tax Convention: Discussion Draft (29 April 2011 to 15 July 2011), available under <http://www.oecd.org/tax/treaties/47643872.pdf> (accessed 15 December 2017).
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4.4.3. UN Sources

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4.4.5. Journals and other articles

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Wirtschaftsforschung GmbH, available under <http://ftp.zew.de/pub/zew-docs/dp/dp17011.pdf> (accessed 15 December 2017).

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4.5. ANNEXES TO PART II

4.5.1. Annex 1: List of Useful Contact Points in African Governments

Title	Last Name	First Name	Government Department	Position	Country
Mr	Dos Santos	Claudio	Administração Geral Tributaria (AGT)	Director dos grandes contribuintes	Angola
Mr	Sambo	Luis	Ministry of Finance		Angola
Ms	Brito	Francisca	Unidade de Informação Financeira (UIF)	President	Angola
Ms	Dossou	Séverine	Cellule Nationale de Traitement des Informations Financières (CENTIF)	President	Benin
Ms.	Baba-Moussa	Mariama Soumano	Direction Générale des Impôts et Domaines (DGID)	Directrice des Impôts	Benin
Mr	Morris	Keneilwe Robert	Botswana Unified Revenue Service	Commissioner General	Botswana
Dr	Sethibe	Abraham	Financial Intelligence Agency	Head	Botswana
Mr	Ouattara	Adama Nouhoun	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Secrétaire Général	Burkina Faso
Mr	Tonde	Robert	Cellule Nationale de Traitement des Informations Financières (CENTIF)	President	Burkina Faso
Mr	Nana	Aimé	Direction Générale des Douanes	Chef du service du Renseignement Burkina Faso et de l'Analyse des Risques	Burkina Faso
Mr	Adama	Badolo	Direction Générale des Impôts	Directeur Général	Burkina Faso
Mr	Mopa	Modeste Fatoing	Direction Générale des Impôts	Directeur Général	Cameroon
Mr	Zanyine	Joseph Gana	Directorate General of Taxes, Ministry of Finance	National Coordinator, Revenue Enhancement Programme	Cameroon
Ms.	Almada Fernandes	Kylly Samhaa	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Presidente	Cape Verde
Mr	Kanyampa	Vincent Kabwa	Congo Tax Revenue Authority (Direction des Impots)	Director General Adjoint	Congo
Col.	Toure	Idrissa	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Président	Côte d'Ivoire
Mr	Kouakou	Pascal Abinan	Direction Générale des Impôts	Directeur Général des Impôts	Côte d'Ivoire
Mr	Talizo	Tasile	CENAREF	Secrétariat Exécutif	Democratic Republic of Congo
Ms	Aboghally	May	Ministry of Finance		Egypt
Mr	ElMonayer	Amr	Ministry of Finance	Vice Minister for Tax Policy	Egypt

Title	Last Name	First Name	Government Department	Position	Country
Mr	Shale	Beker	Ethiopia Federal Inland Revenue Authority (FIRA)	Director General	Ethiopia
Mr	Lulesa	Gemechu Weyuma	Financial Intelligence Centre	Director	Ethiopia
Mr	Heboto	Desta lambebo	Ministry of Finance and Economic Cooperation	Head, Tax Policy Division	Ethiopia
Mr	Darboe	Alagie	Financial Intelligence Unit	Acting Director	Gambia
Mr	Darboe	Yankuba	Gambia Revenue Authority	Commissioner General	Gambia
Mr	Jallow	Essa	Gambia Revenue Authority	Deputy Commissioner General and Commissioner of Domestic Tax	Gambia
Ms	Jeng	Amie Kolleh	Ministry of Finance	Director of Public Finance Management	Gambia
Mr	Agyapong	Godfred	Bureau of National Investigation	Head of Audit	Ghana
Ms	Blankson-Anaman	Ama	Department for International Development (DFID) Ghana	Economic Adviser	Ghana
Mr	Dua	Kwaku	Financial Intelligence Centre	Chief Executive Officer	Ghana
Mr	Nutakor	William	Financial Intelligence Centre	Head, Research and Analysis	Ghana
Ms	Des Bordes	Constance	Ghana Immigration Service	Head of Revenue	Ghana
Ms	Andoh-Kwofie	Faustina Agyeiwaa Kodua	Ghana Police Service	Director, Fraud Unit	Ghana
Dr	Heloo	Dela	Ghana Revenue Authority	Assistant Commissioner	Ghana
Mr	Nti	Emmanuel Kofi	Ghana Revenue Authority	Commissioner General	Ghana
Mr	Dzadzra	Anthony	Ministry of Finance	Director	Ghana
Mr	Kwarteng	Kwaku	Ministry of Finance	Deputy Minister	Ghana
Mr	Mara	Koly	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Président	Guinea
Ms	Da Veiga	Teresa	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Presidente	Guinea Bissau
Ms	Kimani	Muthoni	Asset Recovery Agency	Head	Kenya
Mr	Jackson	Kitili Mativo	Financial Reporting Centre	Interim Director	Kenya
Mr.	Nandi	Alex	Financial Reporting Centre	Director / Interim Director/Chief Executive Officer of the FRC	Kenya
Mr	Mburu	James Githii	Kenya Revenue Authority	Head - Investigations	Kenya
Mr.	Njiraini	John Karimi	Kenya Revenue Authority	Commissioner General	Kenya

Title	Last Name	First Name	Government Department	Position	Country
Mr	Rotich	Henry K.	Kenyan National Treasury and National Revenue Authority	Cabinet Secretary	Kenya
Ms	Khabele	Palesa	Financial Intelligence Unit	Director	Lesotho
Mr	Cuffy	Alexander	Financial Intelligence Unit	Director	Liberia
Ms	Tamba	Elfrieda	Liberia Revenue Authority	Commissioner General	Liberia
Mr	Banda	Victor	Anti-Corruption Bureau of Malawi	Former Asst. Dir., Operations	Malawi
Hon.	Kawale	Samuel	Malawi National Assembly	Chairperson, Media and ICT Committee of Parliament	Malawi
Mr	Kamoto	Raphael	Malawi Revenue Authority	Commissioner general	Malawi
Mr.	Samoura	Marimpa	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Président	Mali
Mr	Diarra	Dionké	Direction Générale des Impôts	Directeur Général des Impôts	Mali
Mr	Ollivry	Guillaume	Financial Intelligence Unit	Head	Mauritius
Mr	Hannelas	Michel Mario	Mauritius Revenue Authority	Director	Mauritius
Mr	Driss	Berrada	Direction Générale des Impôts	Director in charge of Tax Auditing	Morocco
Mr	Abbar	Ahmed	Treasury of the Kingdom of Morocco	Director of public accounts	Morocco
Mr	Bensouda	Noureddine	Treasury of the Kingdom of Morocco	General Treasurer	Morocco
Mr	Ubisse	Armindo E.	Gabinete de Informação Financeira de Moçambique (GFIM)	Director	Mozambique
Mr	Simao	Horacio Jeremias	Mozambique Revenue Authority	Director General	Mozambique
Ms	Dunn	Leonie Elleneza	Financial Intelligence Centre	Director	Namibia
Mr.	Mwafongwe	Justus	Inland Revenue Directorate	Director, Large Tax	Namibia
Mr	Schlettwein	Calle	Ministry of Finance	Minister	Namibia
Mr.	Sanady	Tchimaden Hadatan	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Président	Niger
Ms.	Hambali	Rabiou Haoua	Direction Générale des Impôts	Directrice Générale Adjointe	Niger
Mr	Diop	Papa Lamine	Central Bank of Nigeria	Executive Secretary	Nigeria
Mr	Ough	Richard	Department for International Development (DFID) Nigeria	Team Leader & Senior Economic Adviser	Nigeria
Mr	Edgal	Femi	Federal Inland Revenue Service (FIRS)	Special Assistant to Executive Chairman	Nigeria
Mr.	Fowler	William Babatunde	Federal Inland Revenue Service (FIRS)	Executive Chairman	Nigeria

Title	Last Name	First Name	Government Department	Position	Country
Mr	Fagbade	Reuben	Federal Ministry of Finance	Chief Economist	Nigeria
Mr	Bello	Kwalli	Federal Ministry of Industry, Trade and Investment	AD	Nigeria
Mr	Usani	Francis	Financial Intelligence Unit	Director	Nigeria
Ms	Zubairu	Hadiza	Financial Intelligence Unit	Head of Department, Economic and Financial Crimes Commission	Nigeria
Mr	Subair	Ayodele	Lagos State Internal Revenue Service	Executive Chairman	Nigeria
Ms	Oyama	Lena	Nigeria Customs Service	Head, AML Unit	Nigeria
Mr	Balakeffi	Ladi Raulatu	Nigerian Central Bank	Governor	Nigeria
Prof	Owasanoye	Bolaji	Presidential Advisory Committee Against Corruption	Executive Secretary	Nigeria
Mr	Bwimba	David	Financial Intelligence Unit	Head	Rwanda
Mr	Gatete	Claver	Ministry of Finance and Economic Planning	Minister	Rwanda
Dr	Biryabarema	Michael	Rwanda Natural Resources Authority (RNRA)	Deputy Director General, Geology & Mines	Rwanda
Mr	Kanyangira	John	Rwanda Natural Resources Authority (RNRA)	Director, Business Support Services in Mining Investment	Rwanda
Mr	Tusabe	Richard	Rwanda Revenue Authority	Commissioner General	Rwanda
Mr	Lopes dos Ramos	Rita Idalino	UIF de Sao Tomé & Prince	Director	Sao Tomé & Prince
Mr	Almutiri	Abdulrahman	General Authority for Zakat and Tax (GAZT)		Saudi Arabia
Mr	Ndour	Waly	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Président	Senegal
Mr	Ba	Amadou	Ministry of Economy, Finance and Planning	Minister	Senegal
Mr	Sambou	Abdou Benjenkins	Senegal Revenue Authority	Head of Bureau of Intelligence, Studies & Data Processing	Senegal
Ms	Felix	Bryna	Ministry of Finance	Policy Analyst	Seychelles
Mr	Barber	Declan	Seychelles Financial Intelligence Unit (FIU)	Director	Seychelles
Ms.	Morel	Jennifer	Seychelles Revenue Commission	Revenue Commissioner	Seychelles
Mr	Kamara	Ahmed	Financial Intelligence Unit	Director	Sierra Leone
Mr	Kanu	Idrissa	Ministry of Finance and Economic Development (MoFED)	Director of Revenue and Tax Policy	Sierra Leone
Ms.	Kallah-Kamara	Haja Isata	National Revenue Authority	Commissioner General	Sierra Leone

Title	Last Name	First Name	Government Department	Position	Country
Mr	Goosen	Peter	Department of International Relations and Cooperation (DIRCO)	Chief Director	South Africa
Ms.	Van Reenen	Elizabeth	Department of Trade and Industry (DTI)	Chief Director	South Africa
Ms.	Mukwevoh	Phinah	Department: Small Business Development (DSBD)	Acting Chief Director: Market Access Development	South Africa
Ms	James	Cheryl	Fasset (Finance and Accounting Services Sector Education and Training Authority)	Chief Executive Officer	South Africa
Mr	Michell	Murray	Financial Intelligence Centre	Director	South Africa
Mr	Setai	Pule	Ministry of Finance	Chief of Staff	South Africa
Mr	Mvovo	Lutando John	National Treasury	Director: International Tax and Treaties	South Africa
Mr	Naidoo	Devan	National Treasury	Chief Director	South Africa
Ms	Malatji	Makgomo	National Treasury	Deputy Director	South Africa
Ms	Roux	Nathalie	South African Reserve Bank	Divisional Head : ADLA Supervision Division	South Africa
Mr	Moyane	Thomas Swabihi	South African Revenue Service (SARS)	Commissioner General	South Africa
Mr	Louw	Gerhard	State Security Agency	Senior Analyst: Economic Intelligence Unit	South Africa
Dr	Mfeka	Bheki	The Presidency, Strategic Economic Advisory Services	Economic Advisor to the President of the Republic of South Africa	South Africa
Mr	Bushara	Abdallah Hassan Eisa	Sudan Taxation Chamber	Secretary General Taxation Chamber	Sudan
Mr	Mtsetfwa	Mauduzi Tustin	Central Bank of Swaziland	Senior Exchange Control Officer	Swaziland
Mr	Fitzgerald	Graham	Financial Intelligence Unit	Head	Swaziland
Mr	Dlamini	Martin	Swaziland Ministry of Finance	Minister of Finance	Swaziland
Mr	Sukati	Henry	Swaziland Revenue Authority	Principal Legal Officer	Swaziland
Mr.	Makombe	Onesmo Hamis	Financial Intelligence Unit	Commissioner	Tanzania
Mr	Jairo	Isaya	Institute of Tax Administration (ITA), Tanzania Revenue Authority	Rector	Tanzania
Mr	Kichere	Charles Edward	Tanzania Revenue Authority	Commissioner General	Tanzania
Mr	Tchaa Bignossi	Aquiteme	Cellule Nationale de Traitement des Informations Financières (CENTIF)	Président	Togo
Ms.	Awadé	Ingrid	Direction Générale des Impôts	Directrice Générale des Impôts	Togo

Title	Last Name	First Name	Government Department	Position	Country
Ms	Louati Jrad	Habiba	Ministère des Finances/ Direction Générale des Etudes et de la Législation Fiscales	Director	Tunisia
Mr	Ridha	Ben Ahmed	Tunisia Revenue Authority	General Director of Taxes	Tunisia
Mr	Asubo	Sidney	Financial Intelligence Authority (FIA)	Interim Executive Director	Uganda
Ms	Ninsiima	Claire Bashaasha	Ministry of Finance, Planning and Economic Development	Economist	Uganda
Ms	Akol	Doris	Uganda Revenue Authority	Commissioner General	Uganda
Mr	Saka	Henry Martin	Uganda Revenue Authority	Commissioner Domestic Taxes	Uganda
Mr	Makinson	David	Cabinet Office		United Kingdom
Mr	Mason	Phil	Department for International Development (DFID)	Head of Anti Corruption	United Kingdom
Ms	Tshuma	Mary	Financial Intelligence Centre	Director	Zambia
Mr	Chanda	Kingsley	Zambia Revenue Authority	Commissioner General	Zambia
Mr	Simbeye	Laban	Zambia Revenue Authority	Executive Assistant to the Commissioner General	Zambia
Mr	Chiremba	Mirirai	Financial Intelligence Inspectorate and Evaluation	Director	Zimbabwe
Ms	Mazani	Faith	Zimbabwe Revenue Authority	Commissioner General	Zimbabwe

4.5.2. Annex 2: List of Useful Contact Points in International and Regional Organisations

Title	Last name	First name	Organisation	Position	Country
Mr	Nnadozie	Emmanuel	African Capacity Building Foundation (ACBF)	Executive Secretary	Zimbabwe
Mr	Coulibaly	Abdoulaye	African Development Bank (AFDB)	Officer-in-Charge, Governance, Economic Reforms Côte d'Ivoire and Financial Management Department	
Mr	Ijeh	Samuel	African Development Bank (AFDB)	Officer-in-Charge, Governance, Economic Reforms Côte d'Ivoire and Financial Management Department	
Mr	Wort	Logan	African Tax Administration Forum (ATAF)	Executive Secretary	South Africa
Ms	Dlamini-Zuma	Nkosazana	African Union	Chairperson	South Africa
Mr	Miyaki	Yuji	Asian Development Bank	Public Management Specialist (Taxation)	Phillipines
Mr	Sharif	Hamid	Asian Infrastructure Investment Bank (AIIB)	Director General	China
Mr	Diop	Papa Lamine	Association of African Central Banks (AACB)	Executive Secretary	Senegal
Mr	Cornillet	Didier	Centre de Rencontre des Administrations Fiscales (CREDAF)	Secretary General	France
Mr	Cole	Neil	Collaborative Africa Budget Reform Initiative	Executive Secretary	South Africa
Ms	Shah	Aarti	Collaborative Africa Budget Reform Initiative	Head of PFM Programme	South Africa
Mr	Quayson	Richard	Commission on Human Rights and Administrative Justice (CHRAJ)	Deputy Commissioner	Ghana
Mr	Onduru	Duncan	Commonwealth Assoc of Tax Adm (CATA)	Secretary General	United Kingdom
Dr	Kisanga	Eli	Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)	Executive Secretary	Tanzania
Ms	Siaw-Boateng	Sena	Economic Community of West African States (ECOWAS)	Director, Africa and Regional Integration	Ghana
Ms	Moutarlier	Valere	European Commission	Director	Belgium
Mr	Huetz	Gerhard	European Investment Bank (EIB)		Luxembourg
Mr	Reinfeldt	Fredrik	Extractive Industries Transparency Initiative (EITI)	Chair of the Board	Norway
Mr	Lewis	David	Financial Action Task Force (FATF)	Executive Secretary	France
Mr	Otamendi	Santiago	Financial Action Task Force (FATF)	President	France
Ms	Frank	Cheryl	Institute for Security Studies (ISS)	Division Head: Transnational Threats and International Crime Division	South Africa
Mr	Verdi	Marcio	Inter-American Center of Tax Administrations (CIAT)	Executive Secretary	Costa Rica

Title	Last name	First name	Organisation	Position	Country
Mr	Verdi	Marcio	Inter-American Center of Tax Administrations (CIAT)	Executive Secretary	Costa Rica
Mr	Garcia	Gustavo	Inter-American Development Bank	Coordinator of the fiscal sector	United States
Mr	Kreutner	Martin	International Anti-Corruption Academy (IACA)	Director	Austria
Ms	Bernier	Chantal	International Centre for the Prevention of Crime (ICPC)	President	Canada
Mr	Keen	Michael	International Monetary Fund (IMF)	Deputy Director, Fiscal Affairs, IMF	United States
Ms	Pomodoro	Livia	International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC)	President	Italy
Mr	Lomøy	Jon	Norwegian Agency for Development Cooperation: NORAD	Director general	Norway
Ms	Stensrud	Lise	Norwegian Agency for Development Cooperation: NORAD	Policy Director	Norway
Mr	Saint-Amans	Pascal	OECD	Director, Centre for Tax Policy and Administration	France
Ms	Garde	María José	OECD, Global Forum on Tax Transparency	Chair	Spain
Mr	Bohoslavsky	Juan Pablo	Office of the United Nations High Commissioner for Human Rights (OHCHR)	Independent Expert on Foreign Debt and Human Rights	Switzerland
Mr.	Zanamwe	Gainmore	South African Development Community: Secretariat - Hub & Spokes Programme	Regional Trade Advisor	Botswana
Mr	Khasipe	Thabo David	Southern African Customs Union (SACU)	Deputy Executive Secretary	Namibia
Mr	Baina	Mohammed Amine	UN Committee of Experts on International Cooperation in Tax Matters	Member	Morocco
Mr	Diop	El Hadji Ibrahima	UN Committee of Experts on International Cooperation in Tax Matters	Member	Senegal
Mr	Mvula	Ignatius	UN Committee of Experts on International Cooperation in Tax Matters	Member	Zambia
Ms	Halka	Dominika	UN Department of Economic and Social Affairs	Economic Affairs Officer	United States
Mr	Tonino	Harry	UN Department of Economic and Social Affairs	Officer	United States
Mr	Lennard	Michael	United Nations	Chief of the International Tax Cooperation Section	United States
Mr	Trepelkov	Alexander	United Nations	Director, Financing for Development Office	United States
Dr	Elhiraika	Adam	United Nations Economic Commission for Africa (UNECA)	Director, Macroeconomic Policy Division	Sudan
Mr	Lopes	Carlos	United Nations Economic Commission for Africa (UNECA)	Executive Secretary	Ethiopia

Title	Last name	First name	Organisation	Position	Country
Ms	Smith	Cindy J.	United Nations Interregional Crime and Justice Research Institute (UNICRI)	Director	Italy
Mr	Lemahieu	Jean-Luc	United Nations Office on Drugs and Crime (UNODC)	Director Policy Analysis and Public Affairs	Austria
Ms	Strobel-Shaw	Brigitte	United Nations Office on Drugs and Crime (UNODC)	Chief, Conference and Support Section, Corruption and Economic Crimes Branch	Austria
Ms	Tullis	Melissa	United Nations Office on Drugs and Crime (UNODC)	Project Management Officer, DPA	Austria
Mr	Oladapo	Babatunde	West African Tax Administration Forum (WATAF)	Executive Secretary	Nigeria
Ms	Georgieva	Kristalina	World Bank Group	Chief Executive	United States
Mr	Loeprick	Jan	World Bank Group	Senior Economist	United States
Mr	Turkewitz	Joel	World Bank Group	Programme Coordinator	United States
Mr	Walliser	Jan	World Bank Group	Vice President, Equitable Growth, Finance and Institutions	United States
Ms	Hinojosa	Ana	World Customs Organisation (WCO)		Belgium

