



Good
Governance
In A **D**igital & **O**pen
Trading
Environment

In association with

World Bank Group

United Nations Office on Drugs and Crime (UNODC)

And

African Tax Institute

ANNOTATED ONLINE AGENDA

**Online Conference on Good Governance in a Digital and Open Trading
Environment**

February 7- 8, 2022

**The transformative impact of new technologies in tackling tax
transparency and corruption in the new digital and open trade
environment**

Conference on Good Governance in a Digital and Open Trading Environment

An African Perspective

The Tax and Good Governance Project (2015-2018) conducted by the WU Global Tax Policy Centre (WU GTPC) in partnership with World Bank, United Nations Office on Drugs and Crime (UNODC) and the African Tax Institute (ATI) confirmed that corruption in all its forms has been undermining the ability of African countries to realize sustainable development through domestic resource mobilization. As a result, the second phase of the WU GTPC's work, the [Tax Transparency and Corruption \(TT&C\)](#) Project 2019 – 2023, addresses the interaction between tax transparency and corruption from the perspective of tax administrators, financial intelligence units, policymakers, business, civil society and academics and involved three very closely related objectives:

1. Increasing the effectiveness of government actions to counter tax evasion, money laundering and bribery.
2. Removing barriers to exchange information within and between countries and improving transparency in tax planning.
3. Establishing a legal framework for cooperative compliance and promoting tax certainty.

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

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

Following the TT&C July 2021 conference, it was agreed that there was need to include a new focus group on technology and illicit financial flows (IFFs). It was also agreed to establish a joint group with the Africa Union (AU) and the African Tax Administration Forum (ATAF) to discuss the impact of the Africa Continental Free Trade Agreement (AfCFTA) on the ability of countries to combat IFFs.

COVID 19 continues to place a heavy strain on African economies with the continent's GDP having contracted by 2.1 percent in 2020.* African governments

* Africa Development Bank, *Africa Economic Outlook 2021: From Debt Resolution to Growth: The Road Ahead for Africa*, 2021, chapter 1. Accessed at https://www.afdb.org/sites/default/files/2021/03/09/aeo_2021_-_chap1_-_en.pdf

therefore need revenues to finance their health systems and to counter the economic downturn. The crisis will also open up new opportunities for unscrupulous operators to exploit assistance programs by diverting funds offshore. Organized crime will find new ways to engage in illicit flows of medicine and medical equipment. African governments will need to stand together to counter such activities. What needs to be done is well known: better access to information on beneficial owners of opaque vehicles, more effective cooperation between different law enforcement agencies, using new technologies in the fight against IFFs, changing the dynamic of the relationship between tax administrations and business. What has been lacking so far is widespread political support for such actions. COVID 19 offers governments an opportunity to move forward to recover some of the billions of dollars that are lost every years. In addition, the Pandora leaks reaffirmed that gaps remain in the implementation of beneficial ownership standards and placed corporate service providers in the limelight for their role in perpetuating tax evasion and financial crimes.

The objectives of this conference are to assess the progress made to date in the TT&C and DOTE projects, to confirm a common understanding of the objectives and intended outcomes amongst stakeholders and to facilitate dialogue to identify key gaps and opportunities for policy change that these projects can inform. This annotated agenda briefly sets out the main issues that will be considered as the primary focus topics of this project and provides suggested questions that will be used to guide the discussions and the speakers. A number of detailed background papers are available which you can also access on our [cloud](#) (PW: Vienna2022). Please refer to our [website](#) for more details.

Agenda for a Virtual Meeting

*Speakers Not Confirmed

February 7-8, 2022

ONLINE via MS Teams

DAY 1 - AFTERNOON SESSION, FEBRUARY 7, 2022

13.00-17.45 (ALL TIMES ARE IN CET VIENNA TIME)

CHAIR: JEFFREY OWENS (DIRECTOR OF WU GLOBAL TAX POLICY CENTER)

13:00 – 13:15	Opening of the Conference Welcome address: <ul style="list-style-type: none">- Jeffrey Owens, Director GTPC, WU- Chiara Bronchi, Practice Manager, WB
13:15 – 13:35	Session I: Mapping the progress so far and the expected outcomes Issues for Discussion: <ul style="list-style-type: none">o What are we trying to achieve?o Overview of the findings of the focus groupso What have we achieved so far?o What key thematic areas are emerging? Speaker: <ul style="list-style-type: none">- Jeffrey Owens, Director GTPC, WU- Jean-Luc Lemahieu, Director, UNODC Documents: <ul style="list-style-type: none">- Project brochure- WB/WU report on interagency cooperation Open Discussion
Context for Discussion: There is an increasing recognition by the various forums, bodies, panels, and countries involved in developing policy responses to deal with IFFs that there are common synergies between them which, if harnessed properly, can amplify the effectiveness of individual approaches. For instance, while the stated	

purpose of the FATF Standards on transparency and beneficial ownership is to prevent the misuse of corporate vehicles for money laundering or terrorist financing, the implementation of these Standards supports efforts to prevent and detect other predicate offences such as tax crimes and corruption. They also reinforce the capacity of jurisdictions to meet their legal obligations arising from related international standards such as the UN Convention against Corruption (UNCAC), the Council of Europe Criminal Law Convention on Corruption, the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, and the Standard for Automatic Exchange of Financial Account Information. Common to many of these regimes and standards is the shared recognition that the identification of the ultimate beneficial owners of accounts and of corporations is crucial to detecting, tracking, and preventing illicit financial flows, by enabling authorities to more effectively and efficiently “follow the money”.

Yet despite this veritable cornucopia of regulations, directives, standards, and guidelines, the most recent Pandora Papers leaks and other previous cases of large-scale money laundering and tax evasion have revealed the continuing ease with which opaque corporate vehicles and secrecy jurisdictions are used to facilitate both the commission of predicate offences—including bribery, corruption, miss-invoicing and tax evasion—and the laundering of the subsequent proceeds. While conceding that the leaks focused attention on the need to strengthen controls against the misuse of corporate structures, the FATF concluded in its October 2016 report to the G-20 that the analysis of recent peer reviews did not point to any specific gaps or inadequacies in the international standard. Rather, the FATF argued that the issue remains the so-called “effectiveness gap” that exists between countries’ *technical* compliance with international standards on paper, and *actual* implementation of the rules in practice.* Similar to Luanda Leaks, the most recent Pandora leaks highlighted the need to address the effectiveness gap, revealing how 330 politically exposed persons (PEP) from more than 90 countries use offshore structures and trusts to hide wealth. Although not all the leaked files indicate illegal activities, the leaks emphasized the need for ownership transparency to tackle corruption and also put a spotlight on the role corporate service providers play in structuring these companies to protect beneficial ownership. Working to curb IFFs facilitated by opaque systems and laws is important for countries as it increases domestic revenue mobilization necessary for the achievement of the sustainable development goals.

* E. van der Does de Willebois et al., *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*, Stolen Asset Recovery Initiative, World Bank, UNODC, 2011, available online at: <https://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf>.

Given the enduring weaknesses in the overall global transparency framework, the need to strengthen existing beneficial ownership standards has been emphasized by different groups and organizations including the UN FACTI Panel and the G20, amongst others. In response the FATF have been engaged in the revision of Recommendation 24 to include greater emphasis on a multi-pronged approach for collection of information and the adoption of a risk-based approach, amongst other aspects. This amendment to Recommendation 24 will introduce important advancements to the overall standards, however their impact will only be as strong as the implementation efforts undertaken by the competent authorities, public bodies, financial institutions and designated non-financial businesses and professionals.

13:35 – 16:00

Session II: Understanding the sources of beneficial ownership information, the opportunities they provide for verification and the role of technology

Issues for Discussion:

- What are the sources of beneficial information available to African countries?
- Are BO registries capable of being the main source of information?
- How is this information shared among the different organizations collecting it?
- How reliable and accurate is information from other than registries? Do they have similar definitions in the legal framework?
- What are the constraints faced in using beneficial ownership from different sources?
- How can we improve verification?
- Are national registries the answer and under what conditions?
- Can new technologies help resolve some of the outstanding issues and should there be a move towards an African wide digital registry e.g. the proposals being discussed by Afrexim bank?
- What is the status of inter-agency cooperation on collection, verification and maintenance of beneficial ownership information?

Speakers:

- Joy Ndubai, WU
- Joyce Mwangi/Irene Muthee, Kenya Revenue Authority

Panelists:

- Lize van Schoor, Financial Intelligence Centre, South Africa
- Ana Cebreiro Gomez, Senior Economist, WB
- Karabo Rajuili, Open Ownership
- Emil Meddy, Financial Intelligence Centre, Ghana
- Kathy Nicolaou-Manias, Technical Advisor, Argent Econ Consult (Pty) Ltd

Documents:

- Updated draft manual prepared on the basis of Focus Group discussions on the implementation of BO
- WU GTPC Paper on beneficial ownership
- *Why and How to Effectively Implement Beneficial Ownership Regulations* by Professor Jeffrey Owens and Joy Ndubai
- World Bank paper on the Pandora leaks

Open Discussion

Context for Discussion:

Beneficial ownership is the last significant barrier to effective exchange of information. Standards have been developed by a number of key organizations including Financial Action Task Force (FATF), UN Convention Against Corruption (UNCAC), UN Office on Drugs and Crime (UNDOC), Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), World Bank, STAR Initiative and Extractive Industries Transparency Initiative (EITI), amongst others. However, countries have mainly focused on achieving legal compliance, whilst actual implementation lags behind.

The objective has been to collect and maintain accurate, adequate and timely information on the beneficial owner of a legal person, legal arrangement or bank account. FATF's definition of a beneficial owner – the natural person with ultimate ownership or effective control – has been widely adopted. In general, the FATF recommendations have the potential to support all relevant national authorities in detecting other predicate offences (tax crimes or corruption) and in reinforcing legal obligations relating to the UNCAC, OECD Convention on Bribery, Automatic Exchange of Information, and Exchange of Information on Request (EOIR), amongst others.

A number of agencies and institutions are tasked with the collection and holding of beneficial ownership information including financial institutions, companies, registries, stock exchange commissions, legal professionals, Financial Intelligence Units (FIU), customs units, and tax authorities, amongst others. Despite this, FATF have found that, FIUs are not always aware of the type of information collected by other enforcement agencies, particularly tax

authorities. This highlights the need for greater facilitation of inter-agency cooperation and exchange between authorities. Following these findings, it is expected that FATF will issue new rules on BO in March 2022.

Following initial discussions with countries through the Focus Group on Beneficial Ownership, strong emphasis was placed on the need to focus more on the practical challenges in implementation and verification. In particular, countries identified the following:

- A need to focus on the collection, availability and use of information in recovery, tax investigations and forfeiture.
- Enhance efforts to address the nature of investigative work carried out by tax authorities to improve access between authorities. In doing so, one should question whether authorities make efforts to make effective use of that information and reflect on how it is stored and shared.
- Implementation is constrained by whether or not authorities have the appetite to begin collecting accurate beneficial ownership information. For instance, the willingness of a companies' registry to comply with the legal obligation to collect and share will often affect the kind of information that other agencies can access.
- Engage in developing parameters "Red Flags" to identify who has effective control outside of legal ownership.
- Identify the type of information that custom authorities, tax authorities, FIUs, central banks and other agencies are collecting and determine whether they understand how that information may be relevant to, for instance, a tax crime, corruption investigation or money laundering investigation.
- Focus on verification as a top-down discussion. The need for accurate information compels authorities to ensure data is of a sufficient standard, credible, useful and actionable.

We must now move beyond the focus on compliant legal frameworks as it is no longer sufficient, effective implementation and enforcement of laws should be the main area of focus. The project now considers the effective collection and verification of beneficial ownership information through a number of sources available to tax administrations and FIUs and the use of new technologies.

16:00 - 16:10	Coffee Break
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16:10 – 17:45

Session III: The transformative potential of new technologies in enhancing inter-agency cooperation

Issues for discussion:

- What are the technologies currently being used at a domestic and regional level by FIUs, customs and tax administrations to collect accurate data and to facilitate information sharing?
- What emerging technologies look the most promising?
- What are the constraints faced in the use of new technologies?
- What pre-conditions are necessary for the successful digitalization within all government organizations involved in countering IFFs?
- What can FIU and tax administrations learn from each other in the use of new technologies?

Speakers:

- Nathalia Oliveira Costa, WU
- Anders Agerskov, Lead Public Sector Specialist, WB

Panelists:

- Pieter Alberts, Monitoring and Analysis, South Africa Financial Intelligence Center
- Emmy Mbera, Rwanda Revenue Authority
- Shotunde Biola, Associate Director, Nigeria Financial Intelligence Unit
- Bernd Schlenther, ATI

Documents:

- Draft WU report based upon the discussions in the Focus Group
- New technologies mean new opportunities for African Tax Administrations by Professor Jeffrey Owens and Martha Olowska
- FATF paper on Opportunities and Challenges of New Technologies for AML/CFT
- OECD/ATAF report on Supporting the Digitalisation of Developing Country Tax Administrations

Open Discussion

Context for Discussion:

African countries have developed innovative new ways to collect vast source of data to detect and investigate potential tax or financial crimes with the objective of prevention or prosecution and recovery. A number of these solutions take advantage of new technologies and this has proven to be a game-changer. In

the last six years, the WU GTPC team has worked with officials from tax authorities, FIUs and other law enforcement agencies to establish the role of inter-agency cooperation in combatting tax and other financial crimes and provide practical recommendations for the use of a variety of regulatory tools, including beneficial ownership and unexplained wealth orders, designed to support transparency and overall investigative efforts. In doing so, the focus groups have identified the growing use of digital technologies to support efficiency and ease the capacity constraints on often overwhelmed authorities by focusing their efforts on the highest risk transactions, entities, individuals and arrangements. This work has been able to draw upon the WU Digital Economy Taxation Network (DET), established in 2017 which is a multi-stakeholder initiative that provides a platform for discussions among governments, businesses, regional and international organizations and academia. The DET's objective is to undertake relevant policy-research on the tax issues arising from the digital economy.

There are significant lessons that countries may be able to share and learn from based on the experiences of authorities that have already embarked upon efforts to innovate and the Focus Group is keen to document these experiences in order to provide best practice recommendations and support any gaps in ongoing efforts. Thus far a number of digital technologies and key process management needs have been identified that will require even more analysis as part of the TT&C and DOTE work.

DAY 2 - AFTERNOON SESSION, FEBRUARY 8, 2022

13.00-17.30 (ALL TIMES ARE IN CET VIENNA TIME)

CHAIR: CHIARA BRONCHI (PRACTICE MANAGER AT THE WORLD BANK)

13:00 – 15:00	<p>Session IV: Tax and Trade: The Implications of the AfCFTA on efforts to curb IFFs</p> <p>Issues for discussion:</p> <ul style="list-style-type: none">○ What is the impact of rules of origin and tariff schedules especially for the co-existence of the regional trade areas and the AfCFTA?○ What is the potential for increased illicit financial outflows, particularly trade mis-invoicing and cross-border tax evasion in light of AfCFTA?○ Are there specific provisions in the AfCFTA that have the potential to undermine regional or national policies designed to combat IFF?○ What is potential of the AfCFTA on tax revenues arising from cross-border transactions (particularly customs revenues) within Africa? <p>Speakers:</p> <ul style="list-style-type: none">- Joy Ndubai, WU- Varsha Singh, Senior Advisor to the Executive Secretary, ATAF <p>Panelists:</p> <ul style="list-style-type: none">- Yeo Dossina, Head of Economic Policy and Research, African Union Commission- Habiba Ben Barka, Chief of the Africa Section of UNCTAD- Lilian Anyango Nyawanda, Commissioner of Customs and Border Control, Kenya* <p>Documents:</p> <ul style="list-style-type: none">- Draft WU report on Identifying the Potential Tax Implications of Selected Provisions of the African Continental Free Trade Agreement: Experiences from the EU and the WTO- Draft WU report on Cementing Regional Cooperation to Counter Illicit Financial Flows (IFFs): Opportunities and Risks for the African Continental Free Trade Agreement
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- Economic Development in Africa Report - Reaping the Potential Benefits of the African Continental Free Trade Area for Inclusive Growth, UNCTAD, 2021

Open Discussion

Context for Discussion:

The AfCFTA, which entered into force in May 2019, aims to create a single market for goods and services, facilitated by free movement of people and capital, a Continental Customs Union (CCU) and a liberalized market for goods and services in order to deepen economic integration between African countries. The AfCFTA has protocols covering trade in goods and services, investment, intellectual property rights, competition policy and dispute settlement rules and procedures. The provisions are not different from existing provisions contained in similar trade agreements such as the World Trade Organization (WTO) Agreements, the European Union (EU) and the North American Free Trade Agreement (NAFTA) which have all resulted in unique challenges for both domestic and cross-border taxation and given rise to disputes that have had implications on policies introduced to combat IFFs. The Agreement will cover a market of 1.2 billion people across 55 countries. The World Bank estimates that the full implementation of the AfCFTA has the likelihood to bring more than 30 million people out of extreme poverty and give rise to real income gains of *approx.* US\$ 450 billion.* However, these income gains will differ across countries and sectors ranging between 2 – 14% between countries.† Whilst tariff liberalization is expected to result in 0.2% (of GDP) income gains at the continental level, the largest gains are expected from the reduction of non-tariff barriers and full implementation of the AfCFTA.‡ A short-term impact on tax revenues is expected including “a decline by under 1.5% for 49 out of 54 countries,” and “total tax revenues would decline by less than 0.3% in 50 out of 54 countries”.§

According to UNCTAD, “for the [AfCFTA] to be a game changes, countries in Africa need to adopt policies that enhance consistency between trade measures, diversification objectives and inclusivity”.** Indeed, the implementation and effectiveness of the AfCFTA requires coordinated regional and domestic inter-agency cooperation. Moreover, there seems to be little consideration given to the relationship between the tax and trade in the consideration for implementation. The joint project with ATAF focuses on building awareness of the risks posed by the AfCFTA with its ultimate goal being to have African countries agree upon a policy proposal on minimizing IFFs and tax risks arising from the AfCFTA, thereby enabling the agreement to achieve its full potential of promoting regional trade and investment.

* World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects*, World Bank Group, 2020, p.3

† World Bank, p.3

‡ World Bank, p.3-4

§ World Bank, p.4

** UNCTAD, *Economic Development in Africa Report: Reaping the Potential Benefits of the Continental Free Trade Area for Inclusive Growth*, UNCTAD, 2021, p.1

15:00 – 15:15	Coffee Break
15:15 – 17:10	<p>Session V: Investigating Unexplained Wealth</p> <p>Issues for discussion:</p> <ul style="list-style-type: none"> ○ How is unexplained wealth investigated? ○ What are the sources of the information relied on? ○ How is the beneficial owner traced? ○ How is the information attained validated and the legitimate and illegitimate wealth separated? <p>Speakers:</p> <ul style="list-style-type: none"> - Rita Julien, WU - Jean Pierre Brun, WB <p>Panelists:</p> <ul style="list-style-type: none"> - Dianne Willman, NPA Asset Forfeiture Unit, South Africa - Isaiah Nyaga, Chief Manager, Kenya Revenue Authority - Paul Keyton, Director Integrity Reporting Services Agency, Mauritius <p>Documents:</p> <ul style="list-style-type: none"> - Draft report prepared by the Focus Group on Unexplained Wealth Orders <p>Open discussion</p>

Context for discussion

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

Some African countries, such as Kenya, Mauritius, and Zimbabwe, have enacted “unexplained asset” or “unexplained wealth order” laws. Others, for example South Africa, are considering it. Thus, as African countries, both in this project and in general, have expressed interest in exploring this tool

further, the WU GTPC team is actively contributing to more research, guidance and debate on UWOs. Much insight can be gained from studying the different ways countries have designed such laws, and from comparisons with other similar and related tools, such as asset recovery regimes, illicit enrichment offences, investigations by tax authorities, obligatory assets declarations for public officials, and voluntary disclosure regimes. This will help develop a better understanding of these tools, of their novel features and their familiar features, of their interactions with other commonly recommended tools, and of where UWOs fit in a broader strategy to combat corruption and crime.

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

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

From this, the focus group has identified key considerations and good practices particularly in the area of good governance and transparency in designing the UWO laws. The joint WU/WB report considers the comparison of the design of UWOs across countries and novel approaches to recovery of unexplained wealth.

17:10- 17:30

Next Steps

Issues for discussion:

- July conference 28-29 June 2022 in Vienna
- Priorities for the next 6 months

Speakers:

- Jeffrey Owens, Director, WU
- Chiara Bronchi, Practice Manager, WB

Open Discussion